

# Public Document Pack



MEETING: PLANNING COMMITTEE

DATE: 26th June 2024

TIME: 6.30 pm

VENUE: Bootle Town Hall,

## Member

Councillor  
Cllr. James Hansen (Chair)  
Cllr. Brenda O'Brien (Vice-Chair)  
Cllr. Tony Brough  
Cllr. Mike Desmond F.R.C.A.  
Cllr. John Dodd  
Cllr. Joe Johnson  
Cllr. John Kelly  
Cllr. Sonya Kelly  
Cllr. Steve McGinnity  
Cllr. Christopher Page  
Cllr. Carol Richards  
Cllr. Michael Roche  
Cllr. Lynne Thompson  
Cllr. Paul Tweed  
Cllr. Joanne Williams

## Substitute

Councillor  
Cllr. Leslie Byrom C.B.E.  
Cllr. Janet Grace  
Sir Ron Watson  
Cllr. Dominic McNabb  
Cllr. Mike Sammon  
Cllr. Nina Killen  
Cllr. Susan Bradshaw  
Cllr. Dave Robinson  
Cllr. Daniel McKee  
Cllr. Karen Cavanagh  
Cllr. Tom Spring  
Cllr. Danny Burns  
Cllr. Mike Sammon  
Cllr. Carla Thomas  
Cllr. Ian Maher

COMMITTEE OFFICER: Ian Barton  
Telephone: 0151 934 2788  
email: [ian.barton@sefton.gov.uk](mailto: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.**

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# **A G E N D A**

## **1. Apologies for Absence**

## **2. Declarations of Interest**

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

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

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

## **3. Minutes of the Previous meeting** (Pages 3 - 8)

Minutes of the Meeting held on 5 June 2024.

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

Reports of the Chief Planning Officer

### **A DC/2024/00432 - Site Of Alt Service Station** (Pages 9 - 20) **Northway, Maghull**

### **B DC/2024/00746 - Summerhill Primary School Poverty** (Pages 21 - 40) **Lane, Maghull**

## **5. Planning Appeals Report** (Pages 41 - 72)

Report of the Chief Planning Officer

## **6. Visiting Panel Schedule** (Pages 73 - 74)

Report of the Chief Planning Officer

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

## PLANNING COMMITTEE

### MEETING HELD AT THE BOOTLE TOWN HALL ON 5 JUNE 2024

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

Councillors Brough, Dodd, Johnson, John Kelly,  
Sonya Kelly, Christopher Page, Richards, Roche,  
Thompson, Williams, Thomas, McNabb and McKee

ALSO PRESENT: Councillor Veidman

#### 163. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Desmond, McGinnity and Tweed.

#### 164. DECLARATIONS OF INTEREST

In accordance with Paragraph 9 of the Council's Code of Conduct, the following declarations of personal interest were made and the Members concerned left the room during the consideration of the item:

Member	Minute No.	Nature of Interest
Councillor Johnson	Minute No. 170 DC/2024/00375 - 6 Berry Street, Bootle.	Is the Applicant.
Councillor McKee	Minute No. 168 DC/2023/02125 – 1-17 St Andrews Close and adjacent open space, Maghull.	Pre-determination - has discussed the proposals with objectors.

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

Member	Minute No.	Nature of Interest
Councillor Thomas	Minute No. 169 DC/2024/00159 - 12 Northway, Maghull.	As a children's services matter this falls under her Overview and Scrutiny Portfolio

# Agenda Item 3

PLANNING COMMITTEE - WEDNESDAY 5TH JUNE, 2024

## **165. MINUTES OF THE PREVIOUS MEETING**

RESOLVED:

That the Minutes of the meeting held on 10 April 2024 be confirmed as a correct record.

## **166. DC/2023/01041 - LAND AT DURANTS COTTAGES, MELLING LANE, MAGHULL**

The Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of 4 No. semi-detached dwellings (plots 1, 2, 3 and 4) following the demolition of No's 1 and 2 Durants Cottages; the erection of 2 No. detached dwellings (plots 5 and 6) and erection of replacement dwelling following demolition of No. 4 Durants Cottages; the conversion and reinstatement of No. 4 Melling Lane including two storey extension to the rear to form a dwellinghouse; and the creation of a communal garden, with a new access road from Melling Lane and associated car parking 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 the application be granted subject to the conditions and for the reasons stated or referred to in the report and in Late Representations.

## **167. DC/2024/00627 - 101 SOUTH ROAD, WATERLOO**

The Committee considered the report of the Chief Planning Officer recommending that the above application for the retention of ground floor class E use at front of premises; change of use of the rear part of the ground floor and the whole of the 1st and 2nd floors to form a 6 bedroom (6 person) HMO; removal of flat roof above rear yard to create outdoor amenity space; refuse storage for both the Class E Unit and HMO, cycle storage in basement, with minor external alterations to windows and doors be granted subject to the conditions and for the reasons stated or referred to in the report.

Arising from the discussion, Members expressed concern regarding the living conditions on the occupiers of the proposed units as the proposal was now for 6 bedrooms whereas the previous application approved on appeal in March 2023 was for 5 bedrooms, meaning that the rooms in the proposed development would be smaller.

RESOLVED:

That the recommendation be not approved and the application be refused for the reason that the proposals are contrary to Policy HC4(2)(b) by virtue of the impact on the living conditions on the occupiers of the units due to the reduced bedroom size from the scheme previously allowed on appeal.

**168. DC/2023/02125 - 1-17 ST ANDREWS CLOSE AND ADJACENT OPEN SPACE, MAGHULL**

The Committee considered the report of the Chief Planning Officer recommending that the above application for the variation of conditions 1 and 14 pursuant to planning permission DC/2019/02432 approved 03/08/2020 for amendments to the surface treatment of the access road, driveways and landscaping for the public open space 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.

**169. DC/2024/00159 - 12 NORTHWAY, MAGHULL**

The Committee considered the report of the Chief Planning Officer recommending that the above application for the change of use from an office (E) to a children's home (C2) for a maximum of two children, with up to three carers, two of whom will sleep overnight, working on a rota basis be granted subject to the conditions and for the reasons stated or referred to in the report.

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 2 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 and the removal of Condition (4) as set out in the report submitted.

**170. DC/2024/00375 - 6 BERRY STREET, BOOTLE**

The Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of a single storey extension to the front and installation of a gate to the existing palisade fence be granted subject to the conditions and for the reasons stated or referred to in the report.

# Agenda Item 3

PLANNING COMMITTEE - WEDNESDAY 5TH JUNE, 2024

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.

## 171. 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 J. Thomas	DC/2019/01441 (APP/HH/2014) - 13 Rosemary Lane Formby Liverpool L37 3HA - appeal against a remedial notice in respect of a high hedge complaint	Part Allow/Dismissed 15/05/2024
JCDecaux ltd	DC/2023/01407 (APP/M4320/Z/24/3337440) - Land at the Junction of Derby Road and Strand Road Bootle Liverpool L20 8EE - appeal against refusal by the Council to grant advertising consent to display a freestanding internally illuminated 48 sheet digital LED advertisement display sign to replace the existing sign.	Allowed 13/05/2024
Mr Javed	DC/2023/01092 (APP/M4320/W/23/3335615) - 65 Scarisbrick New Road Southport PR8 6LF - appeal against refusal by the Council to grant Planning Permission for the creation of a new driveway, vehicular access to Curzon Road, a new external door and reconfiguration of fire escape	Dismissed 26/04/2024
Mr. K. Jamieson	DC/2023/00540 (APP/M4320/W/23/3328625) - 201A Altway Aintree Liverpool L10 6LB - appeal against refusal by the Council to grant Planning Permission for the change of use of ground floor from retail (E) to a bar/cafe with the provision of outdoor seating (Sui Generis)	Allowed 24/04/2024

# Agenda Item 3

PLANNING COMMITTEE - WEDNESDAY 5TH JUNE, 2024

Mr. M. Gouldbourne	DC/2023/01175 (APP/M4320/D/23/3333711) - 21A Ryeground Lane Formby Liverpool L37 7EG - appeal against refusal by the Council to grant Planning Permission for alterations to the dormer roofs from pitched to flat roof dormers on the front elevation. (Alternative to DC/2022/01593)	Dismissed  12/04/2024
Mrs. L. Byrne	DC/2023/01520 (APP/M4320/D/24/3337183) - 52 Edge Lane Crosby L23 9XF - appeal against refusal by the Council to grant Planning Permission for the construction of a vehicular access to a classified road	Dismissed  11/04/2024

RESOLVED:

That the report be noted.

## 172. VISITING PANEL

The Committee considered the report of the Chief Planning Officer which advised that the undermentioned sites had been inspected by the Visiting Panel on 3 June 2024.

Application No.	Site
DC/2024/00375	6 Berry Street, Bootle
DC/2023/01041	Land at Durants Cottages, Melling Lane, Maghull
DC/2023/02125	1-17 St Andrews Close and adjacent open space Maghull
DC/2024/00159	12 Northway, Maghull
DC/2024/00627	101 South Road, Waterloo

RESOLVED:

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

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**Report of:** CHIEF PLANNING OFFICER      Derek McKenzie

**Report to:** PLANNING COMMITTEE      **Date of Meeting:** 26<sup>th</sup> June 2024

**Subject:** [DC/2024/00432](#)  
[Site Of Alt Service Station Northway Maghull](#)

**Proposal:** Application for approval of reserved matters (appearance and scale) pursuant to outline planning permission DC/2020/01437 granted 22/03/2021 for the erection of 2No. drive thru units

**Applicant:** c/o agent Drivestandard Limited      **Agent:** Mr Richard Woodford  
Woodford Land and Planning

**Ward:** Molyneux Ward      **Type:** Reserved Matters

**Reason for Committee Determination:** Chief Planning Officer's discretion

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## Summary

Outline permission for two drive thru units was approved by application DC/2020/01437 in 2021. The current reserved matters application seeks approval for the design, layout and operational hours of the units.

The proposal is of an acceptable scale and design for the site and would not harm the character of the area. The living conditions of the nearby residents would not be unduly affected. Contamination, drainage and construction details would be secured by condition.

The development accords with Maghull Neighbourhood Plan and Sefton's Local Plan and therefore is recommended for approval.

## Recommendation: Approve with conditions

**Case Officer**      Louise Everard

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

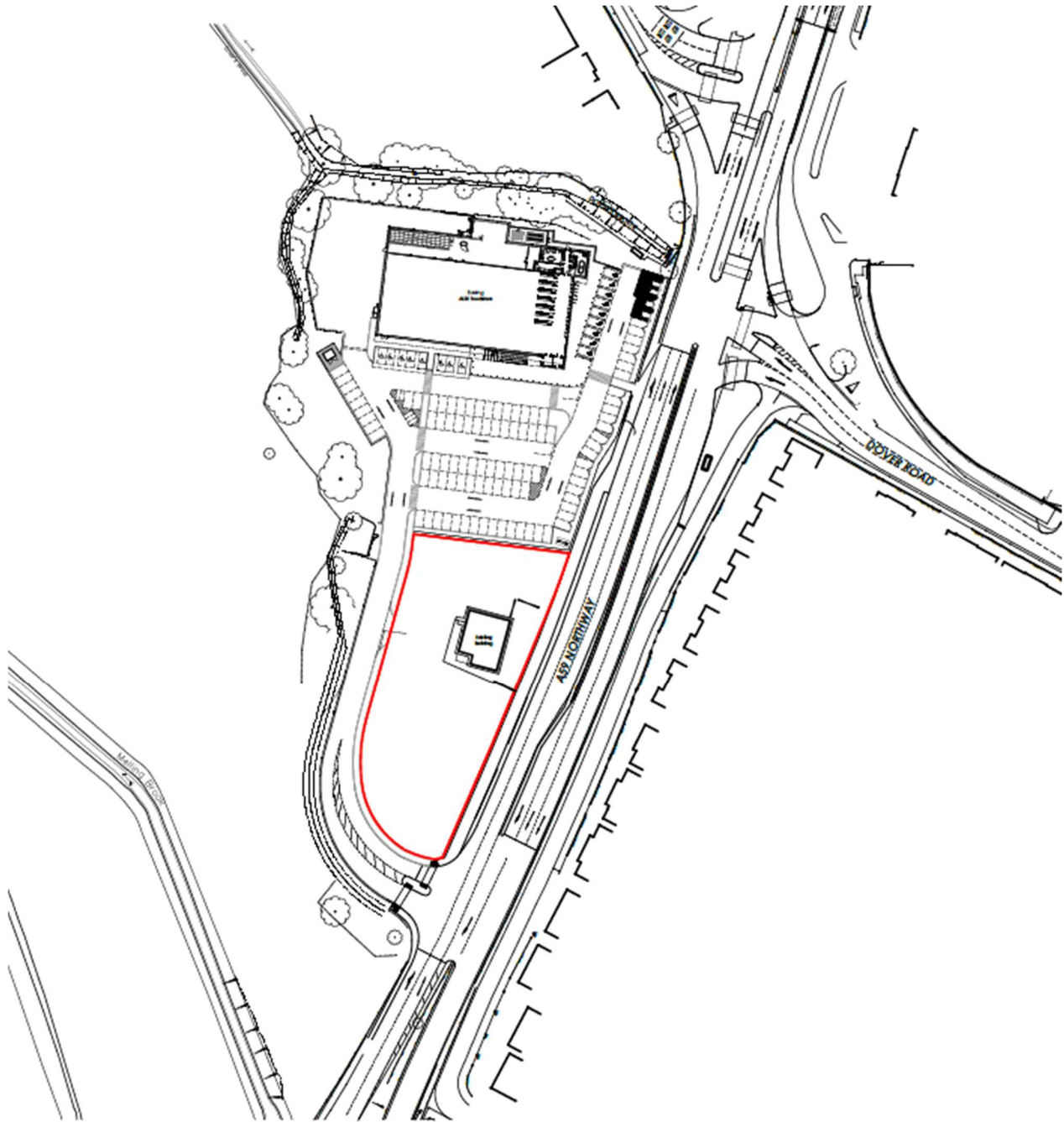
**Telephone**      0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S9ZSVDNWJPR00>

# Agenda Item 4a

## Site Location Plan



## The Site

The site is located on the A59 Northway in Maghull. It forms part of a larger development site, which includes the ALDI food store to the north, dealt with under the hybrid planning application DC/2020/01437.

The A59 forms the eastern boundary of the site, with residential property on the other side of the highway. The existing shared access road that leads to ALDI borders the south and west boundary of the site. Along the edge of the access road is an area of dense landscaping which is next to Melling Brook and Dover's Brook.

## History

There is an extensive history on this site which relates to previous uses.

The current scheme is linked to the application for the erection of a foodstore with associated access, car parking, servicing and hard and soft landscaping following demolition of existing buildings and outline permission for the erection of two drive thru restaurants (Ref: DC/2020/01437), which was approved with conditions in March 2021.

## Consultations

### **Environmental Health Manager**

No objection subject to condition

### **Highways Manager**

No objection subject to condition

### **Contaminated Land Team**

No comments to make in respect of the reserved matters application.

### **Flooding & Drainage Manager**

No objection subject to condition

### **Merseyside Environmental Advisory Service**

No objection

### **Local Planning Manager**

No comments

# Agenda Item 4a

## Neighbour Representations

One objection was received from a local resident, raising concerns on the following matters:

Objects to 24 hour opening

Does not want illuminated signs.

Concerned that cars will be allowed 24 hours when deliveries are limited to times due to noise levels.

Can not fully oppose the units as no details of the end occupiers

One neutral comment was received from a resident, making enquires as to whether the boundary of the surrounding land would be updated to screen the cars within the site from the dwellings on the opposite side of the road.

## Policy Context

The application site lies within an area designated as Primarily Residential and Green Belt 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 Outline permission was granted for two drive thru restaurants under the hybrid application DC/2020/01437 so the principle of this use is acceptable. The ALDI store approved by the previous application has been constructed and is fully operational. The current application seeks approval for the reserved matters for the drive thru element of the scheme. The details submitted seek to address the following conditions attached to the outline permission.

Condition 37 – Details of scale and landscaping

Condition 39 – Opening hours

Condition 41 – Employment Skills Plan

Condition 42 – Noise assessment

Condition 43 – Lighting assessment

1.2 The specific occupiers are yet to be identified; therefore, a number of matters will remain to be dealt with via conditions, including Construction Environment Management Plan (CEMP), surface water drainage scheme, details of foul drainage and sewerage, details of odour control and site

investigations.

1.3 The main issues for consideration are the design and landscaping, plus the impact on the surrounding area and highway safety.

## **2. Design and Landscaping**

2.1 The indicative siting of the two units was assessed at the outline planning application stages and the current layout being considered is in line with this previous approval.

2.2 The unit A drive thru would be the smaller of the two units, with an internal area of approximately 168m<sup>2</sup> and would be located towards the north of the site. The shop frontage would face into the site, towards the car park area. Unit B would be located to the south of the site, with the shop frontage facing towards Northway. The second unit would be approximately 274m<sup>2</sup> internally.

2.3 The buildings will appear as prominent features in the street scene, given the open nature of the site frontage, with all elevations readily visible. Both units would be single storey and would incorporate a mixture of render and cladding panels. Timber and wood effects panels will also be added to soften the appearance of the buildings. Additional brick details have been proposed to the south and east facing elevation of unit A and all elevations of unit B, helping to break up the larger areas of render. The buildings would include suitable detailing to all elevations and their design would complement the neighbouring ALDI building. The massing of the buildings would be subservient to the surrounding context. Therefore, the overall design and scale of the units are appropriate within the site.

2.4 The Maghull Neighbourhood Plan aims to improve 'Green Corridors' within Maghull, which identifies the north-south corridor along Northway as in need of enhancement and protection. Policy MAG5 'Green Corridors' proposes that new development must not harm green corridors and tree planting was secured along the western boundary of the A59 Northway as part of the planning permission (DC/2020/01437), through a Section 106 legal agreement.

2.5 The scheme will have formal hardstanding including paved areas around the drive thru units, leading to the entrance to the buildings. Landscaping will be provided around the boundary of the site, including the planting of 7 new trees, some areas of ornamental shrubs and a native clipped hedge along most of the site boundary. A 450mm high timber rail will surround the site to define the boundary, without compromising visibility. The proposed landscaping will help to soften the appearance of the car parking and adjoining hardstanding.

2.6 Overall, the design and layout of the buildings and landscaping are acceptable and would not harm the character of the area. It therefore would comply with the Maghull Neighbourhood Plan Policy MAG5 and Local Plan Policy ED2 'Design'.

# Agenda Item 4a

## 3. Impact on surrounding area/properties

### Noise

3.1 The hours of operation are to be considered by the reserved matters application, as required by condition 39. 24 hour use is being sought for both drive thru units, given the location adjacent to the motorway network. The properties most sensitive to the development are the residential dwellings on the other side of Northway, which are set over 46m from the proposed units.

3.2 A supporting Noise Impact Assessment (NIA) has been submitted with the application, which has been reviewed by the Council's Environmental Health Team. The assessment shows that the noise levels associated with the car park and drive thru use would be low. The methodology and the conclusions within the report are considered acceptable by the Environmental Health Manager.

3.3 The report includes plant noise rating level design limits within table 9 of the NIA. As the final occupants of the units are not yet known, a condition could be used to ensure that any plant and equipment to be installed within the units comply with the limits set within table 9.

3.4 The Environmental Health Manager suggested that, based on the noise data, delivery time restrictions could be secured by condition, for the time periods of most concern, 05.00-07.00 and 21.00 and 23.00. However, the following condition was attached to the original hybrid application.

*32) Deliveries shall not be taken at or dispatched from the site at any time outside the hours of 0630-2200 Monday to Saturday and 0800-1900 on Sundays and Bank Holidays.*

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

3.5 As the previous condition relates to the whole site, it remains applicable to the development of the drive thru units and a further condition relating to delivery restrictions would not be necessary. It is concluded that the development would not be expected to adversely affect nearby residents in terms of noise.

### Lighting

3.6 A proposed lighting plan and a supporting Lighting Assessment has been submitted with the application. This concluded that the development is in a suburban location and the development site would be classified as Environmental Zone E3, a medium district brightness area. The Environmental Health Manager concludes that the proposed lighting would comfortably meet the criteria for an Environmental Zone 3 and would not result in obtrusive light which would adversely affect the nearby residential dwellings.

3.7 Merseyside Environmental Advisory Service (MEAS) have also reviewed the proposed lighting. The lighting is proposed to be controlled via an astronomical time clock to switch the lighting based on sunset/sunrise times and will feature back shields which will reduce light impact to the adjacent sites. MEAS have advised the proposed lighting is acceptable from an ecological perspective and is sufficient to recommend the discharge of condition 43.

3.8 Any signage would require separate advertisement consent and is not being considered by this application.

## Scale

3.9 Given the substantial distance between the proposed units and the dwellings on the opposite side of the road and the scale of the buildings, the development would have no significant impact on the outlook or level of light enjoyed by these properties.

3.10 Overall, the development would not be harmful to the character of the area, and it would preserve the living conditions of the nearby residential properties. As such it would comply with Policies HC3 'Residential Development and Primarily Residential Areas' and EQ2 'Design' of the Sefton Local Plan.

## **4. Highway Safety**

4.1 Access to the proposed drive thru units would be via the existing signalised junction on the A59 Northway that serves the ALDI food store.

4.2 The submitted Transport Statement (TS) and subsequent Technical Note demonstrates that the drive thru areas and space within the site could comfortably accommodate the expected vehicles and the development should not lead to vehicles queuing onto the adopted highway.

4.3 Tracking details have been provided to show that cars and 10m long delivery vehicles could safely access, egress and turn around in the drive thru for unit A. For unit B to the south the tracking for the 10m delivery vehicles shows that these vehicles would encroach into numerous car parking spaces to be able to make the required manoeuvres. As this would not affect the adopted highway, this would not cause a safety concern and could be effectively managed within the site. The tracking also shows it would encroach into the kerbed radii within the site car park adjacent to the zebra crossing between the 2 units. To resolve this a condition could be attached requiring a bollard to be provided on the junction radius, to protect pedestrians in this area. As there are no tracking details for vehicles longer than 10m, the Highways Manager advised that service or refuse vehicles longer than 10m should not be used to serve the site. A statement to this effect has been included within the Highways technical note, which would form one of the approved documents, should permission be granted.

# Agenda Item 4a

4.4 A Travel Plan is required for the development as specified in the 'Sustainable Travel and Development' SPD and a Construction Traffic Management Plan would be required in order to minimise the impacts of construction traffic. These can be secured through planning conditions.

4.5 Subject to conditions the Highways Manager has confirmed that the proposal would have no adverse highway safety implications. The development would therefore accord with Local Plan Policy EQ3 'Accessibility'.

## **5. Other matters**

5.1 The hybrid application which granted outline permission for the drive thru units included conditions reserving the details on site investigation, drainage arrangements and a Construction Environment Management Plan (CEMP) for future approval. These conditions remain applicable for the part of the site relevant to the reserved matters application and would require these details to be submitted for agreement prior to the commencement of the drive thru scheme.

5.2 An Employment Skills Plan has been submitted to discharge condition 41. Comments on its suitability are still outstanding from Sefton@work.

## **6. Planning Balance and Conclusion**

6.1 The principle of the development for the drive thru units was accepted on the site through the granting of outline permission as part of the hybrid application, DC/2020/01437.

6.2 The design and scale are appropriate for the site and respect the character of the area. Suitable landscaping would be included around the site boundaries to soften the appearance of built form and hardstanding. The proposal would lead to the development of vacant land and the redevelopment would improve the appearance of this prominent site.

6.3 Sufficient evidence has been provided to demonstrate that the development would not cause harm to the living conditions of the surrounding residential properties.

6.4 Issues relating to contamination, drainage and construction remain controlled by conditions attached to the outline permission.

6.5 The development is considered to comply with the Maghull Neighbourhood Plan and the relevant policies within the Sefton Local Plan.

## **7. Equality Act Consideration**

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



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

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

## Recommendation – Approve with conditions.

### Time Limit for Commencement

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

Reason: To comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

### Approved Plans

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

0100 Rev.A – Location Plan  
0102 Rev.C – Proposed Site Plan  
0103 Rev.B – Boundary Treatment  
0104 Rev.A – Proposed GA Plan  
0105 Rev.A – Proposed GA Plan  
0106 Rev.A – Proposed Roof Plan  
0107 Rev.A – Proposed Roof Plan  
0108 Rev.B – Proposed Elevations  
0109 Rev.B – Proposed Elevations  
1001 Rev.P02 – Landscape Plan

#### Reports

Hepworth Acoustics Noise Impact Assessment – Report No: P23-472-R01v2 (February 2024)

BWB Lighting Impact Assessment - MDT-BWB-ZZ-XX-RP-E-0001 LIA (February 2024)

Transport Statement - Ref: 847-01/TS01 (20th February 2024)

Technical Note No.1 (12th June 2024)

Reason: For the avoidance of doubt.

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## Before the Development is Commenced

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

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

## Before the Development is Occupied

- 4) Within the first planting/seeding season following completion of the development, all planting, seeding or turfing comprised in the approved details of landscaping (drawing no.1001 Re.P02) 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.

- 5) The development shall not be occupied until a detailed scheme of highway works together with a programme for their completion has been submitted to and approved in writing by the local planning authority. The scheme shall include the provision of a bollard at the internal junction radius, but not directly adjacent to the crossing, to protect any pedestrians from vehicles overrunning.

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

Reason: To ensure the safety of highway users.

- 6) The development hereby permitted shall not be occupied until the areas for car parking and cycle parking have been provided in accordance with the details on Drawing No.0102 Rev.C. These parking areas shall be retained for their intended purpose during the lifetime of the development.

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

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

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

## Ongoing Conditions

- 8) Any plant and equipment to be installed on site shall comply with the noise rating level design limits, as detailed in Table 9 within the approved Noise Impact Assessment (Report No: P23-472-R01v2, February 2024). The plant and equipment shall thereafter be operated and maintained in accordance with these details for as long as the use continues.

Reason: To safeguard the living conditions of neighbouring/adjacent occupiers and land users and/or to ensure an acceptable visual appearance.

## Note to Applicant

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

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**Report of:** CHIEF PLANNING OFFICER      Derek McKenzie

**Report to:** PLANNING COMMITTEE      **Date of Meeting:** 26th June 2024

**Subject:** [DC/2024/00746](#)  
[Summerhill Primary School Poverty Lane Maghull L31 3DT](#)

**Proposal:** Erection of a two-storey extension classroom block, extending of existing hall, provision of internal mezzanine floor and raising of hall roof. Erection of single storey extension to form office with linking corridor extension, new playground area, expansion of car parking area, installation of low level and perimeter fencing to match, and landscaping (alternative to DC/2022/01702).

**Applicant:** Yvonne Gleig      **Agent:** Mr John Monk  
Summerhill Primary School      Sefton Council

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

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

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## Summary

This application seeks planning permission to provide a two storey and single-storey extension to the existing school buildings together with a playground, landscape mound, additional car parking and landscaping at Summerhill Primary School, on Poverty Lane, Maghull. Planning permission was refused in July 2023 for a similar scheme due to the impact on the living conditions of the residents of Grange Park, to the increase in pupil numbers and the continued use of the pedestrian access. To address the reason for refusal the school and its pupils have engaged with the School Streets Initiative whereby unauthorised traffic would be prevented from accessing Grange Park during school drop off and pick-up.

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

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

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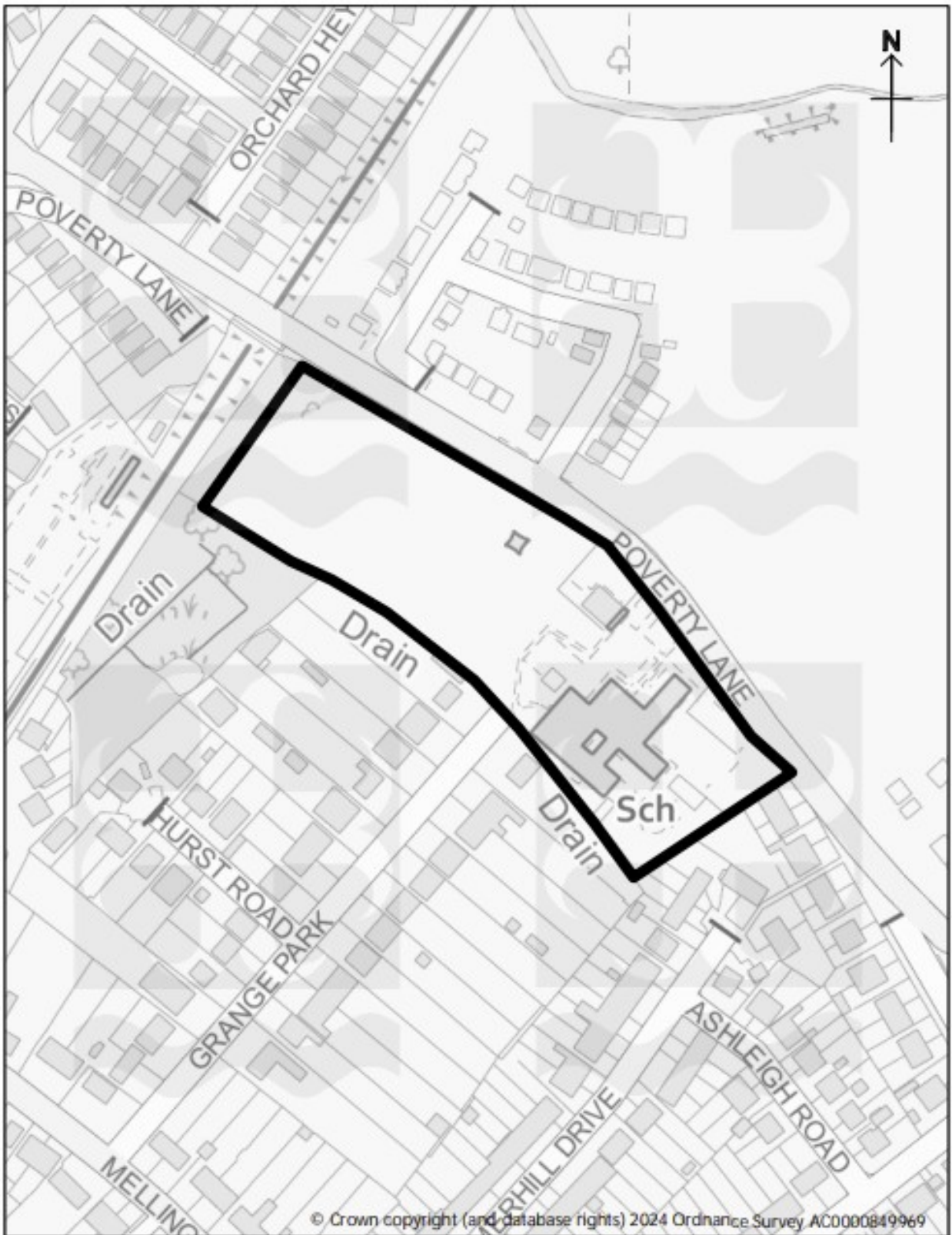
## Recommendation: Approve with Conditions

**Case Officer** Catherine Lewis  
**Email** [planning.department@sefton.gov.uk](mailto: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=SCQY02NW08800>

Site Location Plan



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## The Site

The application site is located on land to the south of Poverty Lane, Lydiate and comprises the building and grounds of Summerhill Primary School. The site comprises approximately 2 ha of land and the school buildings including a small stand-alone nursery are located towards the eastern part of the site. A small area of landscaping with the railway line beyond forms the western boundary, and residential properties adjoin the site to the south and east.

Summerhill Primary is a one form entry primary school with over 200 children on roll and a total of 34 staff. The school hours are 08:45am to 3:20pm but the gates open at 7.55 am and the school offers a breakfast club until 08.55 am and there is an afterschool club 3.20pm to 6.00pm.

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

## History

There are a number of applications relating to the site, with the most recent being:

Erection of a two-storey extension classroom block, extending of existing hall to new kitchen area and raising of hall roof. Erection of single storey extension to form office with linking corridor extension, new playground area, expansion of car parking area, and installation of low level and perimeter fencing to match Ref: DC/2022/01702 refused 26 July 2023 for the following reasons:

*The increase in pupil numbers and continued use of the pedestrian access to Summerhill Primary School would have a detrimental impact upon the living conditions of the residents of Grange Park. The proposal would result in increased noise and disturbance created by the comings and goings along Grange Park and would be contrary to Policy EQ2 Part 2c of the Sefton Local Plan.*

## Consultations

### Environmental Health Manager

#### Air Quality

No objections subject to a condition regarding appropriate dust control during construction.

#### Environmental Health

No objections subject to conditions controlling a Construction Environmental Management Plan (CEMP) detail of piling, kitchen plant and equipment and lighting.

#### Land Contamination Officer

No objections- an Informative about the reuse of soils on site is recommended.



**Highways Manager**

No objections subject to conditions

**Local Lead Flooding Authority**

No objection subject to a drainage condition

**Local Planning Manager**

The proposals are acceptable, and the principle has already been accepted by the Council through Policy MN3 of the Sefton Local Plan.

**Merseyside Environmental Advisory Service**

No objection subject to conditions to control birds during the bird breeding season, and a Habitat Management and Monitoring Plan (HMMP).

**Network Rail**

No objections

**Sport England**

No objection

**United Utilities**

No objection subject to a drainage condition

## Neighbour Representations

Two site notices have been posted: one on Poverty Lane and one on Grange Park and an advert placed in the newspaper. Neighbouring properties have been notified by letter. In line with the Statement of Community Involvement the neighbouring properties on the new residential development have also been notified with an expiry date of 24 June 2026.

One letter of representation has been received which raises the following points.

### The need for the extension

- There are a number of surplus places in the surrounding schools which may negate the need for this proposal; for example, St. Andrews C of E School, which was once a two-form entry school, is now one form entry.
- A redefinition of the boundary for admission to Summerhill School would enable it to cater for the needs of the 'new' local child population created by the housing development opposite the school.

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## Impact upon the living conditions of adjacent residential properties

- The proximity of the proposed playground to Grange Park will result in significant increase in noise.
- There is a strong likelihood of the 'drainage ditch' between my property and Summerhill School being flooded due to the creation of hard surfaces i.e. the two storey extension, the proposed playgrounds and increased car park.
- The possibility of construction traffic in Grange Park.

## Policy Context

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

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

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

## Assessment of the Proposal

### 1. Introduction

1.1 The proposal is to expand Summerhill Primary School from a one-form entry (210 places) to a two-form entry (420 places). The admission number of the school would be increased from 30 to 60 and then the pupil numbers would increase gradually as the new admission number moves through the school year by year. The existing school building has a footprint of 1744m<sup>2</sup> and the new extensions would have a total area of 983m<sup>2</sup> internally.

1.2 The project has a two phased approach. Phase 1 is to construct a two storey eight classroom block and Phase 2 to modify the existing school area to provide an enlarged hall with a mezzanine floor and new kitchen, improved circulation to existing classrooms (rather than through hall space) new classrooms and resources areas, new WC and store. A new playground area with a grass mound approximately 1.2m in height is also proposed. Additional tree planting is included within the site.

1.3 Once Phase 1 has been completed this will allow places to become available with some of the,

classrooms/functions to be moved into the new block which will release the areas for Phase 2 works including improvements to the existing building.

1.4 The main issues to consider are the principle of development, design and character, matters relating to access, transportation and highway safety, ecology including Biodiversity Net Gain, sports provision and community use, residential amenity and general environmental impacts. To address the reason for refusal the school and its pupils have engaged with the School Streets Initiative to prevent unauthorised traffic from gaining access to Grange Park during school drop off and pick up times. Other changes include more landscaping and tree planting due to the introduction of the national Biodiversity Net Gain requirement. The School Places Team has also provided an update on the current situation.

## 2. Land Use Designation

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

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

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

2.4 In response to a query by a resident about the expansion/justification for the increase at Summerhill Primary and potential for other schools to be considered, the Schools Support Team advised in June 2024 that currently there are no surplus places at all in the Maghull Primary schools. As at 4<sup>th</sup> June 2024 there are 155 children on waiting lists for schools within this area. There are no places in the Maghull planning area for the reception cohort September 2024 and parents are having to be offered schools more than the statutory distance from their homes. The impact of this is children are not able to access a place in the community where they live. In addition, this has implications on the home to school transport bill.

2.5 In terms of the second query from the resident, the School Support Team has advised that Summerhill does not currently have a boundary area as part of the school's oversubscription

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criteria. It is considered unnecessary to change this and set up a new catchment area (boundary) due to the proximity of the new properties. Residents in the new housing would be given preference to other families who live further away.

2.6 Therefore, the principle of the expansion of the school has been established in the Local Plan and is increasingly necessary due to the increasing number of children in the immediate area.

### 3. Neighbouring Living Conditions

3.1 The eastern boundary of the school adjoins the side gardens of 24 and 25 Grange Park and provision has been made for a playground with a landscaped mound to a height of 1.2m between the eastern boundary and the playground. Concern has been raised by a neighbour about noise from the playground. The playground would be approximately 27m from the side elevation of no. 25 Grange Park. The mound and landscape planting would reduce the impact of the proposals on the living conditions of these adjacent occupiers. In addition, the proposal is based at an established school site. Given the distance from the dwelling and the landscaping it is considered that the proposal is acceptable.

3.2 The roof of the existing hall would be raised to a height of 5metres, the same as the original plans that were refused in July 2023. The current plans provide for a mezzanine floor in the hall and the applicant has confirmed this would be accessed via a ladder to store the school's Christmas decorations and boxes.

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

3.4 The north east elevation would be approximately 47.5 metres away from the side boundary of the rear garden of no 24 Grange Park. Although there are windows to the classrooms, due to the distance it is considered that there would be no undue impact in terms of privacy, overshadowing or loss of outlook to this property. Subject to the imposition of conditions the proposed development would meet the aims of Policy EQ2 'Design' Part 1 a. of the Sefton Local Plan.

3.5 The construction process has the potential to have an unacceptable impact upon the living conditions of adjacent residential properties in terms of noise, dust and vibration. A construction management plan would be required to be submitted. The wheel wash facilities are currently shown adjacent to the boundary with 86 Poverty Lane. However, the Highways

Manager has advised that the current construction layout plans are unacceptable, and these aspects would be controlled by a condition as set out in paragraph 5.6.10 below.

## 4. Design

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

4.2 Policy MAG 4 'Character Areas' of the Maghull Neighbourhood Plan supports development that respects the distinct characteristics in terms of the type of development, scale, design, open space provision and general layout, and improves but does not detract from its surroundings in the Local Character Areas in which it is located. The site is located within an area defined as the Hall Road Character Area. The Character Area assessment for this area notes that it is one of the oldest parts of Maghull with a mixture of established and imposing Victorian buildings. However, this specific part of the Hall Road Character Area, which includes the homes fronting Poverty Lane, together with the new homes currently being constructed and the school itself, is more modern. Therefore, the proposal would not compromise the character of the Hall Road Character Area.

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

## 5. Access Transportation and Highway Safety

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

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

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

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

- Three new pedestrian crossings on Poverty Lane, a signalised crossing outside the school and 2 zebra crossings, one to the north and one to the south of the school.
- A new 3m wide footway/cycleway will be introduced along the north east side of Poverty Lane fronting the residential site and opposite the school where there is currently a narrow grass verge and no footway. The widening to 2m of a section of existing footway on the south west side of Poverty Lane east of the railway bridge.
- The existing Public Right of Way (Maghull No. 13 Footpath) to the south east of the school that runs alongside the M58 motorway alignment is to be enhanced to a shared cycleway/footway with lighting.
- Improved traffic calming measures will be introduced on Poverty Lane in the vicinity of the school.

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

5.6 It is acknowledged that there is a need to provide adequate car parking whilst balancing the need to expand the school and provide adequate sporting facilities on a constrained site. The highway improvement works associated with the residential development will create improved pedestrian and cycle routes to the surrounding residential areas, Maghull rail station and the bus stops on Poverty Lane to encourage sustainable travel. On this basis, the Highways Manger considers the parking provision is acceptable.

5.7.1 *Grange Park Entrance*

5.7.2 The previous application was refused due to the increase in pupil numbers and continued use of the pedestrian access to Summerhill Primary School which, due to noise and disturbance from vehicles, would have a detrimental impact upon the living conditions of the residents of Grange Park.

- 5.7.3 To address this issue the school and its pupils have worked with Sustrans (a charity aimed at making it easier for everyone to walk, wheel and cycle) and the Highways Team on a range of activities to understand their journey to school experience. One of the outcomes is the commitment to create a School Street along Grange Park and Hurst Park. An Experimental Traffic Regulation Order (TRO) has been made which will temporarily close Grange Park and Hurst Road to general vehicular traffic at the start and end of the school day during term time. This will become operational once the school street signage is erected (currently estimated to be the end of June 2024).
- 5.7.4 The TRO will be in place for 18 months and allows for modifications to be made if deemed necessary. Exemptions in the TRO will apply to residents, emergency service vehicles and blue badge holders visiting the restricted roads. The school street should make these roads safer by preventing vehicles coming to pick up and drop off children and more inviting for walking and cycling to and from school as a result.
- 5.7.5 The operating time of the legal order will be term time excluding inset days as published, and public holidays. The operating times of the order are as follows:
- Start of School Day – 0830hrs – 0900hrs  
End of School Day – 1430hrs – 1530hrs
- 5.7.6 The Government and Local Authorities have a responsibility to encourage sustainable travel by reducing vehicle traffic and enabling children and parents to walk to school. The Grange Park gateway provides this opportunity for those living on the southwest side of the school. The use of the pedestrian gate also provides for families and staff walking through to Maghull station to use public transport to get to work and, for some of their pupils with hidden disabilities, use of the entrance allows for a calmer start to their day.
- 5.7.7 The application is accompanied by a Travel Plan and in combination with the School Streets Initiative, commitment from the school to the travel plan, along with a limited number of additional children accessing the school via Grange Park, the proposal is acceptable and likely to improve the current situation. The Highways Manager has advised that the Travel Plan does need some minor changes including the need to incorporate targets to reduce car travel which can be controlled by a condition.
- 5.7.8 Concern was raised at the previous planning committee meeting about the displacement of cars from Grange Park and the impact that this could have on increased traffic on Poverty Lane. The Highways Manager has advised that the proposed off site highway works detailed above would create improved pedestrian and cycle routes to the surrounding residential areas, Maghull rail station and the bus stops on Poverty Lane to encourage sustainable travel. In addition, the school is very committed to activities which will change behaviour to reduce reliance on the car.

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- 5.7.9 The opportunity to ensure there are sustainable routes to the school through the continued use of the pedestrian gate on Grange Park is considered acceptable. Subject to the imposition of conditions the proposed development would meet the aims of Policy EQ2 'Design' Part 2 (a) of the Sefton Local Plan.
- 5.8 The application is accompanied by a Construction Traffic Management Plan and the construction traffic routing plan to the site directs vehicles via M58 Junction 1. This is acceptable as it reflects what is already in place for the residential development currently being constructed on the opposite side of Poverty Lane. However, the Highways Manager has raised a number of concerns with some of the details - the timing of deliveries, the construction site accesses and wheel wash facilities. Different site construction plans would be needed for different project phases and would need to specify the location of loading/unloading areas, material/plant storage, site offices/welfare facilities, contractor and school/nursery staff vehicle parking, wheel/jet wash facility, etc. for each construction phase. Such details would be addressed with the site contractor. Whilst the current Construction Traffic Management Plan submission is not acceptable, a condition to control this aspect is recommended.
- 5.9 To conclude the assessment of the highways implications, there are no objections in principle to the proposals as there would be no adverse highway safety impacts, subject to conditions controlling the car park, motorcycle and cycle parking, a travel plan, mud on the road and a construction management plan. The proposal therefore satisfies Policy EQ3 'Accessibility' of the Sefton Local Plan.

## 6 Sport England

- 6.1 The siting of the proposed playground and car park extension is acceptable as the proposed development affects only land incapable of forming part of a playing pitch. It does not reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality and would not prejudice the use of the remaining areas of playing field on the site.
- 6.2 Sport England has no objections to this application as it is considered to accord with exception 3 of Sport England's Playing Fields Policy and with paragraph 103 of the National Planning Policy Framework (NPPF).

## 7 Environmental Matters

### 7.1.1 Ecology, Trees and Landscaping

- 7.1.2 The applicant has submitted an ecology report in accordance with Local Plan policy NH2 (Ecology Report, Kingdom Ecology, 10 April 2024). The report states that no evidence of bats or great crested newt use or presence was found. An informative could be added to



ensure that should contractors become aware of them as a legal requirement, work must cease, and advice must be sought from a licensed specialist.

7.1.3 There are two existing large trees and five medium trees which would be affected by the works. The applicant has advised that the existing five medium size trees will be carefully reclaimed and re-planted within the site. To address Biodiversity Net Gain (BNG) the application is accompanied by a 'Defra Metric' and a proposed landscaping scheme which demonstrates that the development is capable of achieving 10% biodiversity net gain. Initially, the Ecology report did not include the school playing field within the application site, and this would have impacted upon the delivery mechanism to achieve Biodiversity Net Gain. Following the submission of an updated ecology report dated 5 June 2024 and an updated Defra Biodiversity metric, Merseyside Ecological Advisory Service, the Council's ecology consultant, has advised that the revised information is acceptable. A total of 110 new trees would be planted within the school grounds and the applicant is required to submit a Habitat Management and Monitoring Plan (HMMP) to show how the proposed BNG will be maintained over a 30-year period. A condition to control this aspect is recommended.

7.1.4 Section 5.2.2 of the ecology report recommends several biodiversity enhancements to improve the ecological value of the site. These are welcomed and should be incorporated within the Habitat Management and Monitoring Plan (HMMP) which can be secured through a condition. A condition recommended by MEAS to ensure that birds are protected during the bird breeding season is not supported as this is covered by other legislation.

## 7.2 Drainage and Flood Risk

7.2.1 The application is accompanied by a Drainage Strategy Report revised in April 2024. This advised that the site is classed as being at low risk of flooding as the site is within Flood Zone 1. The proposed drainage has been modelled to include the proposed areas from the new extensions, any existing areas currently served by the failed soakaways, and the existing areas that have been incorrectly connected to the foul sewers. Where possible, the larger areas of new playground/car park should be of permeable construction to reduce the initial surface water runoff.

7.2.2 Although concerns have been raised by neighbours about surface water flooding the drainage details propose that the surface water would be discharged from site via a gravity connection to the highway drain maintained by Sefton Council's Local Drainage team. Any excess flows would be managed via a combination of cellular attenuation and permeable construction. The Flooding and Drainage Manager and United Utilities have raised no objection subject to a condition to control this aspect. The proposal therefore complies with Sefton Local Plan Policy EQ8, 'Flood Risk and Surface Water'.

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## 8.0 Planning Balance and Conclusion

- 8.1 The above assessment sets out how the scheme complies with the Sefton Local Plan and the Maghull Neighbourhood Plan. The expansion of Summerhill Primary school to provide a two-form entry school is considered acceptable and the principle has been established through Policy MN 3 of the Sefton Local Plan. It has become urgent and necessary to plan in detail for accommodating the expected increase in number of pupils.
- 8.2 Conditions to control the car park arrangements and cycle provision are required to provide a safe access and protect the living conditions of nearby residents. Biodiversity Net Gain has been carefully considered and addressed and ecological aspects can be controlled by conditions to ensure that opportunities for biodiversity are provided. Drainage and environmental protection conditions will ensure that the development is acceptable for both the school and the surrounding residential properties. There are no outstanding objections from any statutory consultees.
- 8.3 Subject to the imposition of conditions the development is considered to be acceptable and accords with the policies in the Local Plan and the Maghull Neighbourhood Plan and with the National Planning Policy Framework.

## 9.0 Equality Act Consideration

- 9.1 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.
- 9.2 The decision to approve this scheme would comply with the requirements of the Equality Act 2010, that no one with a protected characteristic will be unduly disadvantaged by this development.

## Recommendation - Approve with Conditions

### Time Limit for Commencement

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

Reason: In order that the development is commenced in a timely manner, as set out in Section 91 of the Town and Country Planning Act 1990 (as amended).

### Approved Plans

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

ED133- 8 - P01 Location Plan  
ED133 – 8 - P02 Existing Site Plan  
ED133 – 8 - P03 Proposed Site Plan  
ED133 – 8 - P06 Proposed Landscape Plan  
ED133 – 8 - P21 Teaching Block  
ED133 – 8 - P22 Teaching Block First Floor  
ED133 – 8 - P23 Kitchen Block  
ED133 – 8 - P24 Entrance  
ED133 – 8 - P25 Proposed Roof  
ED133 -8 - P30 Proposed General Elevations  
ED133 – 8 - P31 Proposed General Sections /Elevations  
ED133 – 8 - P32 Proposed Site Section X-Y  
ED133 – 8 - P39 Proposed Entrance Canopy

Ecology Report, Kingdo Ecology 5 June 2024 and updated Defra metric (June 2024).  
Drainage Strategy dated February 2023 (revised April 2024) reference no.  
32895/LRD/Sutcliffe and submitted Sustainable Pro Forma.

Reason: For the avoidance of doubt.

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## Before the Development is Commenced

- 3) No development shall commence, including any works of demolition, until a Highways Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the demolition and construction periods and shall include but not be limited to the following:
- the parking of vehicles of site operatives and visitors
  - site access
  - wheel wash facilities.
  - site operational hours and materials delivery times
  - loading and unloading of plant and materials
  - storage of plant and materials used in constructing the development.
  - measures to control the emission of dust, dirt and noise during demolition and construction.

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

- 4) Biodiversity Net Gain condition to be added once wording has been agreed.

## During Building Works

- 5) No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces of the extensions are submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

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

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

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

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

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

- 8) In the event that previously unidentified contamination is found at any time when carrying out the approved development, immediate contact must be made with the local planning authority and works must cease in that area. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the local planning authority. Following completion of the remedial works identified in the approved remediation strategy, a verification report that demonstrates compliance with the agreed remediation objectives and criteria will be required, which is subject to the approval in writing of the local planning authority.

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

## Before the Development is Occupied

- 9) The development hereby permitted including all components of the sustainable drainage system shall be carried out in accordance with the approved Drainage Strategy dated February 2023 (revised April 2024) reference no. 32895/LRD/Sutcliffe and submitted Sustainable Pro Forma. The approved scheme shall be fully constructed prior to occupation in accordance with the approved details, phasing and timetable embodied in the Drainage Strategy, or within any other period as agreed in writing by the local planning authority and in consultation with the Lead Local Flood Authority.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with the Paragraph 167 of the National Planning Policy Framework, House of Commons Written Statement 161 for Sustainable Drainage Systems, and Policy EQ8 of the Local Plan.

- 10) The development shall not be occupied until facilities for the secure storage of cycles and motorcycles have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority and they shall be retained in perpetuity thereafter.

Reason: In order to meet sustainable transport objectives including a reduction in car journeys and the increased use of cycling.

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

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

- 12) The new school buildings shall not be occupied until the proposed mitigation measures within the School Acoustic Assessment NP-009099 Rev 5 submitted by Nova Acoustics have been implemented in full and retained for the lifetime of the development.

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

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

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

- 14) No development shall be occupied until space has been hard surfaced and laid out within the site in accordance with drawing no. ED133- 8- P03 Proposed Site Plan for cars to be parked. These parking areas shall be retained for their intended purpose during the lifetime of the development.

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

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

Reason: To support ecology and biodiversity within the site.

- 16) Before the first use of the two-storey teaching block the first-floor window on the south east elevation of drawing no. ED133-8-P30 shall be obscurely glazed to Pilkington code level 3.

Reason: to protect the living conditions of adjacent residential properties.

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

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

## Informative

- 1) There are a variety of piling methods available, some of which cause considerably greater noise and vibration than others. It is common for the prevailing ground conditions to influence the chosen method of piling. Where the prevailing ground conditions would permit more than one piling method, the Council would expect the contractor to choose the method which causes the least amount of noise and vibration, in accordance with the following hierarchy:

- Pressed-in methods, e.g. Hydraulic jacking
- Auger / bored piling
- Diaphragm Walling
- Vibratory piling or vibro-replacement
- Driven piling or dynamic consolidation

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

- 2) Should you become aware of any protected species present, works should cease immediately, and further specialist advice sought.
- 3) If the re-use of soils is proposed on site a Materials Management Plan (MMP) should be put in place by both the contractor and developer to ensure soils are not deemed to be a waste and are suitable for use. This should be undertaken in accordance with the CL:AIRE publication "The Definition of Waste: Development Industry Code of Practice" (CL:AIRE DoW CoP) that requires production of a MMP. Any material that is deemed to be unsuitable for re-use will need to be removed from the site.

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# Agenda Item 5

<b>Report to:</b>	Planning Committee	<b>Date of Meeting:</b>	Wednesday 26 <sup>th</sup> June 2024
<b>Subject:</b>	Planning Appeals Report		
<b>Report of:</b>	Chief Planning Officer	<b>Wards Affected:</b>	(All Wards)
<b>Portfolio:</b>	Planning and Building Control		
<b>Is this a Key Decision:</b>	No	<b>Included in Forward Plan:</b>	No
<b>Exempt / Confidential Report:</b>	No		

## Summary:

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

## Recommendation(s):

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

## Reasons for the Recommendation(s):

To update members on planning and enforcement appeals

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

N/A

## What will it cost and how will it be financed?

### (A) Revenue Costs

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

### (B) Capital Costs

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

# Agenda Item 5

## Implications of the Proposals:

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

## Contribution to the Council's Core Purpose:

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

## What consultations have taken place on the proposals and when?

### (A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.7689/24) and the Chief Legal and Democratic Officer (LD.5790/24.) have been consulted and any comments have been incorporated into the report.

### (B) External Consultations

Not applicable

## Implementation Date for the Decision

Immediately following the Committee / Council meeting.

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

## Appendices:

The following appendices are attached to this report:

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

## Background Papers:

The following background papers, which are not available anywhere else on the internet can be accessed on the Council's website <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](mailto:planning.department@sefton.gov.uk)

Contact Officer: Mr Steve Matthews 0345 140 0845

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

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

## Appeal Decisions

### 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:** Allowed

**Decision Date:** 03/06/2024

### 100 Guildford Road Birkdale Southport PR8 4JZ

**Reference:** DC/2021/01740 (APP/M4320/X/24/3336597)

Certificate of Lawfulness for the shed in the rear garden of the

dwellinghouse.

**Procedure:** Informal Hearing

**Start Date:** 16/01/2024

**Decision:** Dismissed

**Decision Date:** 17/05/2024

### 100 Guildford Road Birkdale Southport PR8 4JZ

**Reference:** DC/2023/00228 (APP/M4320/W/24/3336615)

Erection of a detached dwellinghouse to the side garden area

with a new access to Shaw's Road.

**Procedure:** Informal Hearing

**Start Date:** 16/01/2024

**Decision:** Dismissed

**Decision Date:** 17/05/2024

### Caravan Park 105 Rock Lane Melling L31 1EW

**Reference:** EN/2023/00234 (APP/M4320/C/23/3326585)

Appeal against without planning permission, the material

change of use of the land from use as grassed open space to

the laying of additional hardstanding to form an extended

gypsy/traveller caravan site.

**Procedure:** Informal Hearing

**Start Date:** 26/07/2023

**Decision:** Quashed

**Decision Date:** 16/05/2024

### Land West Of Rock Lane Rock Lane Melling

**Reference:** DC/2022/02372 (APP/M4320/W/23/3326544)

Change of use of land to form extended gypsy/traveller

caravan site, including the stationing of 12 caravans for

residential purposes, of which no more than 8 shall be static

caravans/mobile homes (maximum 8 pitches) and the laying

of additional hardstanding (part retrospective).

**Procedure:** Informal Hearing

**Start Date:** 26/07/2023

**Decision:** Allowed

**Decision Date:** 16/05/2024

# Agenda Item 5

Appeals received and decisions made between 16 May 2024 and 09 June 2024

## New Appeals

Land To East Of A565 Formby Bypass Formby L37 7HN

**Reference:** DC/2023/02092 (APP/M4320/Z/24/3341533)  
Advertisement consent for the display of 2No. non-illuminated  
hoarding signs

**Procedure:** Fast Track Appeal

**Start Date:** 23/05/2024

**Decision:**

**Decision Date:**

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## Appeal Decision

Site visit made on 7 May 2024

**by Helen B Hockenhull BA(Hons) BPI. MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 03 June 2024**

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**Appeal Ref: APP/M4320/W/23/3336617**

**Bells Healthcare, Slaidburn Crescent, Southport, Merseyside, PR9 9YF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by MBNL against the decision of Sefton Council.
  - The application Ref DC/2023/01727, dated 2 October 2023, was refused by notice dated 24 November 2023.
  - The development proposed is the installation of 1 no. 20 metre monopole with 6 no. apertures mounted at 18.65 metres, 4 no. 600mm dishes at 14.65 metres, the installation of 5 no. cabinet and ancillary equipment.
- 

### Decision

1. The appeal is allowed, and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), for the siting and appearance of the proposed installation of 1 no. 20 metre monopole with 6 no. apertures mounted at 18.65 metres, 4 no. 600mm dishes at 14.65 metres, the installation of 5 no. cabinet and ancillary equipment on land at Bells Healthcare, Slaidburn Crescent, Southport, Merseyside, PR9 9YF in accordance with the application ref DC/2023/01727 and the plans submitted with it including 002 Location plan, 215 Proposed Max Configuration Site Plan, 265 Proposed Max Configuration Elevation A.

### Preliminary matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. Whilst I have had regard to the revised Framework, the issues most relevant to this appeal remain unaffected by the revisions. I am therefore satisfied that there is no requirement to seek further submissions on this matter, and that this would not disadvantage any party. For correctness, I have used the 2023 Framework paragraph references.

4. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have had regard to the Framework, and the policy referred to in the reason for refusal, Policy EQ2 of the Sefton Local Plan, in so far as they are a material consideration relevant to matters of siting and appearance.

## **Main Issue**

5. The main issue in this case is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, and if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

## **Reasons**

6. The appeal site is located within an existing industrial estate and forms an area of grassland with three mature trees near to the entrance to Bells Healthcare. The area is fenced off by palisade fencing and there is an existing substation immediately to the north.
7. The site lies approximately 20 metres from an existing 20 metre high telecommunications mast. The Council have raised concern that should the appeal be successful, the existing mast would remain. Cumulatively the two masts would cause harm to the character and appearance of the area. As the existing mast lies outside the 'red edge' of the application boundary for this appeal on private land, it would not be possible to impose a condition requiring the mast's removal.
8. The appellant has confirmed that they have been given Notice to Quit the existing site and therefore need to find a new location. A copy of the Notice has been provided in the appeal submission. The new mast would form a replacement to the existing one but would be upgraded to 5G.
9. The appellant points out that, whilst the basis of the planning permission for the existing mast is unclear, it is likely to have been granted permission by the General Permitted Development Order 1995 (GDPO) so that the structure would be subject to a condition that it has to be removed when it is no longer required.
10. On the basis of the evidence before me, I am satisfied that on the balance of probabilities, the existing mast would be removed when the new one becomes operational.
11. Turning to the proposed structure itself, it would be the same height as the existing mast but would include more equipment. The area is characterised by large industrial warehouses many with prominent signage and there are a number of lighting columns close to the site. The mast would be seen in the backdrop of the existing warehouse buildings and would not be directly overlooked by residential properties.
12. The proposal includes five ground-based equipment cabins, which, whilst they are included in the appeal proposal for completeness, would form permitted development under Class A of Part 24, Schedule 2 of the GDPO. Nevertheless, they would be set back behind the existing palisade fence which would provide an element of screening.



13. In this context, I consider that the proposal would not form an intrusive or dominant feature. It would cause no harm to the character and appearance of the area. The proposal therefore complies with Policy EQ2 of the Sefton Local Plan which promotes high quality design.
14. I note that the appellant has provided evidence of alternative sites considered. These have been rejected for a variety of reasons including the width of the pavement, existing street furniture and trees as well as proximity to residential properties. The Council queries the robustness of this exercise as no information is provided on the possibility of mast sharing on other structures or buildings. However, in light of my conclusion above, that the appeal proposal causes no harm to local character, it is not necessary for me to consider this matter further.

## **Conditions**

15. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

## **Conclusion**

16. Paragraph 118 of the Framework states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communication networks, including next generation mobile technology (such as 5G).
17. For the reasons given above, I find that the proposal would cause no harm to the character and appearance of the area and therefore the appeal should be allowed, and prior approval should be granted.

*Helen Hockenhull*

INSPECTOR

## Appeal Decisions

Hearing held on 17 April 2024

Site visit made on 17 April 2024

**by Felicity Thompson BA(Hons) MCD MRTPI**

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

**Decision date: 17 May 2024**

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**Appeal A Ref: APP/M4320/X/24/3336597**

**100 Guildford Road, Birkdale PR8 4JZ**

- 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 Chris Wright of Melford Construction Ltd against the decision of Sefton Metropolitan Borough Council.
  - The application ref DC/2021/01740, dated 4 July 2021, was refused by notice dated 14 October 2021.
  - The application was made under section 191(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 described as 'the erection of a garden shed for the benefit of 100 Guildford Road, further details within the submitted cover letter'.
- 

**Appeal B Ref: APP/M4320/W/24/3336615**

**100 Guildford Road, Birkdale, Sefton PR8 4JZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Chris Wright of Melford Construction Ltd against the decision of Sefton Metropolitan Borough Council.
  - The application Ref is DC/2023/00228.
  - The development proposed is the erection of a detached dwellinghouse to the side garden area with a new access to Shaw's Road.
- 

### Decisions

1. Appeal A and Appeal B are dismissed.

### Appeal A

#### *Background*

2. The appeal concerns land and a garden shed located on the corner of Guildford Road and Shaw's Road. There have been two previous planning applications, references DC/2020/02370 and DC/2021/00405, for the erection of a detached dwelling on the land, both refused based on harm to the living conditions of the occupants of 119 Shaw's Road in respect of outlook.

#### *Reasons*

3. Section 191(2) of the 1990 Act states that uses are lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and, they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

4. On an application made under section 191 of the Act, the time to consider whether a use is lawful is at the time of the application (section 191(4)). The burden of proof rests with the appellant and the appropriate test of the evidence is the balance of probabilities.
5. The development is the erection of a garden shed. Article 3(1) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) grants planning permission for the classes of development set out in Schedule 2 to the Order. It includes, at Part 1, Class E(a), the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such.
6. The Council accepts that the proposed building would comply with all the limitations set out in E.1., E.2. and E.3. and I have no reason to conclude otherwise.
7. The main issue in this case is whether the Council's decision to refuse to grant a lawful development certificate was well-founded, with the dispute centred on whether the garden shed is within the curtilage of the dwellinghouse and reasonably required for a purpose incidental to the enjoyment of the dwellinghouse.

### *Curtilage*

8. The Council do not dispute that the land where the shed is sited, was formerly part of the curtilage to 100 Guildford Road, nor do they consider that there has been a material change of use or new planning unit created. Their case is that in fencing off the land, the functional link with the house was lost, such that it no longer formed part of the curtilage. In support they referred to a comment in a design and access statement that the site was 'formerly part of the side garden to 100 Guildford Road'.
9. There is no statutory definition of 'curtilage', which does not describe a use of land but defines an area of land in relation to a building. The courts have considered the issue of curtilage many times. The term generally refers to land which serves the purpose of a building in some reasonably necessary or useful manner.
10. As established, there are three factors to be taken into account when determining whether land constitutes curtilage, these include the physical layout of the building and attached land, the ownership, past and present; and their use or function; past and present.
11. Whether or not land falls within the curtilage of a building is a matter of fact and degree to be considered on a case-by-case basis and thus primarily a matter for the decision maker. What is also apparent is that the relevant date on which to determine the extent of the curtilage is the date of the LDC, but this involves considering both the past history of the land and how it is laid out and used at the time of the application.
12. Shortly after purchasing the house the appellant erected an internal fence between those areas of the curtilage around the house and that to the side. The appellant explained that they purchased No.100 with the intention of developing the land to the side of the house for an additional dwelling and that

they erected the fence to demonstrate how the land could be divided. The land was divided in this way for around two months.

13. The appellant explained that during consideration of the first planning application for a dwelling (DC/2020/02370), they became aware the process may not be as straightforward as anticipated and therefore decided to rent out the house which was unoccupied. They removed internal fence panels toward the rear of the land, so that the land could be accessed and used by the tenants.
14. It is possible for the extent of curtilage to change, and evidently the appellant aspires to build a dwelling on the land, erecting the fence and clearing vegetation being part of that process.
15. However, since the house was not occupied when the fence was erected, none of the land surrounding the house was in use as garden or for domestic purposes at that time. Whilst the land where the shed is sited, was physically and functionally separated from the remaining curtilage, and notwithstanding the appellant's intentions, in my view its status as curtilage could not have been 'lost' in such a short period, particularly in the absence of an intervening or material change of use.
16. I saw that the land has a typical garden appearance with areas laid to grass and paving, with gravel areas close to the shed and importantly, at the time of the application the land was accessible from and used as garden to No.100.
17. Therefore, I am satisfied that, as a matter of fact and degree, the land where the shed is sited is within the curtilage of the dwellinghouse for Part 1 purposes.

### *Incidental*

18. In the case of *Emin V SSE [1989] JPL 909*, referred to in the counsel advice, it was held that, to attract the planning permission granted by the Order, the erection or construction of a building must be required for a purpose incidental to the enjoyment of a dwellinghouse as a dwellinghouse and not for extraneous purposes. Moreover, it is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwellinghouse and answer the question as to whether the building is genuinely and reasonably required or necessary to accommodate the use and thus achieve that purpose. The test of incidental must retain an element of objective reasonableness and it should not be based on the unrestrained whim of the occupier.
19. The appellant stated that the shed is used by the occupants of No.100, and images submitted with the application show the shed in use for the storage of foldable chairs, bikes, footballs, and other domestic paraphernalia. I consider and the Council does not dispute that such a use would be incidental to the enjoyment of the dwellinghouse.
20. The Council's case is that the shed was erected to obscure views from the kitchen window in the neighbouring No.119 and therefore, its erection was not solely for a purpose/s incidental to the enjoyment of the dwellinghouse.
21. The appellant acknowledged that the shed was erected to demonstrate what could be erected on the land but argued the motivation for its erection is not relevant in considering whether it constitutes permitted development.

22. It is apparent from the Council's officer report in respect of the first planning application that the applicant was made aware of concerns about the impact of the proposal on the living conditions of the occupants of No.119. Drawings were subsequently submitted showing what, in their view, could be built as permitted development. Furthermore, it is stated that during the determination period a steeply pitched building was erected 'in order to demonstrate that the harm arising from this application will be less than as 'exists''.
23. Indeed, the appellant's submissions in respect of Appeal B, refer to the shed screening the proposal from the kitchen window at No.119, precluding any impact on the existing neighbouring dwelling.
24. The shed has an unusually steep pitched roof, which combined with its siting, significantly obscures views from the kitchen window in No.119. In my view, the design and siting illustrate the purpose for which the shed was provided, which was to essentially block views from the kitchen window at No.119, in an attempt to overcome the Council's only reason for refusing permission for a dwelling on the land.
25. The appellant couldn't recall whether the house was occupied when the shed was provided. Whilst not determinative, comments from the neighbour that they have not seen anyone use the shed, but have seen the garage used, reinforce my view regarding the purpose and requirement for the shed.
26. On the particular facts of this case, although it appears that the shed at the time of the application was in use for a purpose which would be considered incidental to the enjoyment of the dwellinghouse, the shed was not provided for that purpose. Its purpose was to obstruct views from the kitchen window in No.119. It was not genuinely and reasonably required for purposes incidental to the dwellinghouse as such.
27. The evidence does not show, on the balance of probabilities, that the shed was reasonably required for a purpose incidental to the enjoyment of the dwellinghouse. The development does not, therefore, constitute permitted development by virtue of Schedule 2 Part 1 Class E of the GPDO. It follows that I consider the Council's decision to refuse to grant a lawful development certificate was well-founded.

## **Appeal B**

### *Main issue*

28. The main issue is the effect of the proposed development on the living conditions of the occupants of 119 Shaw's Road with particular regard to outlook.

### *Reasons*

29. The proposed dwelling would front Shaw's Road and broadly follow the front building line of No.119 but would have a slightly lower eaves and ridge height. It would be sited to the other side of the shed, subject of Appeal A, which is near the shared boundary with No.119.
30. The kitchen at No.119 is a galley style kitchen with a window above the sink and at the end of the kitchen through an archway (which is about the size of a single internal door, but without a door fitted) is a modest extension with

# Agenda Item 5

Appeal Decisions APP/M4320/X/24/3336597 & APP/M4320/W/24/3336615

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- windows and French doors overlooking the rear garden. The window above the sink, is the only and therefore primary window to the kitchen and provides the main outlook for the room when standing at the sink and adjoining worktops.
31. In my view, the importance of the kitchen window to the occupants of No.119 is significant, particularly since views out over the rear garden are not easily appreciable when carrying out tasks in the kitchen.
  32. The Council's SPD<sup>1</sup> sets out that the minimum distance between a ground floor habitable room window and a two-storey blank wall should be 12m. It goes on to set out the circumstances where a proposal *might* [my emphasis] be considered acceptable if these standards cannot be met, including where the local area is characterised by lesser distances between properties and it is not possible to meet the interface distances, and where there would be no significant harm to the living conditions of existing or future residents.
  33. The distance between the kitchen window and the proposed dwelling would be around 7.4m, a relatively significant shortfall from the 12m set out in the SPD. Whilst the outlook from the window is towards the relatively tall boundary treatment, the proposal would result in close-range views of a blank wall, which together with the mass of development, would have an unacceptable overbearing impact on the outlook from the kitchen window. This would cause significant harm to the living conditions of the occupants of No.119.
  34. I acknowledge that there had previously been established vegetation on the boundary with No.119 however, it seems there would have been some views over the fence and to the sky beyond. Moreover, vegetation does not have the same dominant effect as a solid wall. Accordingly, whilst it could be replanted it would not have the same harmful effect as the appeal proposal.
  35. The appellant stated that the local area is characterised by lesser distances between properties, in particular referring to 74 and 76 Shaw's Road, where the distance between a side kitchen window and the neighbouring property is as low as two metres, which I saw. However, whilst I saw several properties with lesser separation distances, this does not provide justification for development that would cause significant harm to the living conditions of existing occupants.
  36. The appellant provided details of a planning permission, granted by the Council for two dwellings at 90 Roe Lane. That development included single storey elements close to the boundaries, with two storey elements closer to habitable room windows in neighbouring houses, than in the appeal proposal. In response, the Council stated that the side windows in the neighbouring houses were not primary windows. A photograph submitted by the appellant shows the kitchen arrangement inside 88 Roe Lane. The kitchen diner in that case is a single room, served by a side window, French doors and what appears to be a further window overlooking the rear garden, unlike No.119 where the French doors are through an archway, effectively in another room. The circumstances are not therefore directly comparable and do not provide justification for the appeal proposal.
  37. The Council stated that if the shed were found to be lawful that their reason for refusal would effectively lapse. However, whilst the shed does significantly

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<sup>1</sup> Sefton Council New Build Homes Supplementary Planning Document May 2023

obscure views from the kitchen, it is much smaller than the proposed dwelling, which would have a greater depth and height than the shed. The proposed dwelling would still therefore have an overbearing impact on the outlook from No.119. Accordingly, even if I had found the shed to be lawful, its existence would have been a matter of limited weight and would not have outweighed my findings.

38. The proposal would result in significant harm to the living conditions of the occupants of No.119, with regard to outlook. It is therefore contrary to Policies HC3 and EQ2 of A Local Plan for Sefton Adopted April 2017 (Local Plan) which state that residential development will be permitted where consistent with other Local Plan Policies and require development to protect the amenity of those adjacent to sites. It would also conflict with the aims of the National Planning Policy Framework (Framework) which seeks to ensure a high standard of amenity for existing and future users, and the Council's SPD.

#### *Other matters*

39. There would be modest benefits associated with the provision of an additional dwelling, although I have no information to suggest that the Council does not have a deliverable five-year housing land supply. The appellant stated that the plot would be suitable for a self-build opportunity, and there would be modest social and environmental benefits in providing an extra housing unit in a sustainable location by making an effective use of land, as well as economic benefits associated with the construction of a dwelling and from the additional support to the vitality of the local community from the future occupants of the dwelling.
40. However, the harm to the living conditions of neighbouring occupants means that the social objective of sustainable development would not be achieved. Accordingly, the proposed development would not represent sustainable development for which Policy SD1 of the Local Plan and the Framework presumes in favour.

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Appeal Decisions APP/M4320/X/24/3336597 & APP/M4320/W/24/3336615

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## **Conclusions**

### **Appeal A APP/M4320/X/24/3336597**

41. For the reasons given above I conclude that the Council's refusal to grant an LDC in respect of the erection of a garden shed for the benefit of 100 Guildford Road was 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 (as amended).

### **Appeal B APP/M4320/W/24/3336615**

42. The proposal conflicts with the development plan and the advanced considerations do not indicate that a decision should be made other than in accordance with the development plan. The appeal is therefore dismissed.

*Felicity Thompson*

INSPECTOR



## **APPEARANCES**

### FOR THE APPELLANT:

Chris Cockwill      Agent  
Chris Wright        Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Neil Mackie         Senior Planning Officer

### INTERESTED PARTIES:

Mrs McCaffrey      Occupant 119 Shaw's Road



### Appeal Decisions

Hearing Held on 16 April 2024

Site visit made on 16 April 2024

**by R Merrett Bsc(Hons) DipTP MRTPI**

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

**Decision date: 16 May 2024**

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#### **Appeal A: APP/M4320/C/23/3326585**

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

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Marion Doherty against an enforcement notice issued by Sefton Metropolitan Borough Council.
- The enforcement notice was issued on 27 June 2023.
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the land from use as grassed open space to the laying of additional hardstanding to form an extended gypsy/traveller caravan site.
- The requirements of the notice are "You must cease the use of the land as an extended gypsy / traveller caravan site, remove the hardstanding and reinstate the land to its previous condition by topsoiling and turfing the land."
- The period for compliance with the requirements is 2 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (c) and (g) of the Town and Country Planning Act 1990 as amended (the Act). 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 following correction of the enforcement notice in the terms set out below in the Formal Decision.**

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#### **Appeal B: APP/M4320/W/23/3326544**

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

- 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 Mrs Marion Doherty against the decision of Sefton Metropolitan Borough Council.
- The application Ref DC/2022/02372, dated 16 December 2022, was refused by notice dated 28 April 2023.
- The development proposed is Change of use of land to form extended gypsy/traveller caravan site, including the stationing of 12 caravans for residential purposes, of which no more than 8 shall be static caravans/mobile homes, and the laying of additional hardstanding.

**Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out below in the Formal Decision.**

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### **Preliminary Matters**

#### *Planning History*

1. These appeals relate to an existing Gypsy and Traveller site which in broad terms is situated between, and a relatively short distance from, the settlements of Maghull to the north and Melling to the south. It is situated on land between

Rock Lane to the east and the Leeds and Liverpool canal to the west. To the south of the site is Brewery Lane and further to the north is an outlying cluster of residential properties.

2. Planning permission was previously granted on appeal for the “change of use of the site for residential purposes including the siting of caravans” and also for “engineering works including the importation of hardcore to create a hardstanding area.”<sup>1</sup> This followed the service of enforcement notices by the Council for the same.
3. The land affected by the original material change of use allegation was identified on the plan attached to the relevant notice. That site comprised a rectangular area extending southwards as far as Brewery Lane. However, at the time, the caravans were actually sited within a smaller portion of this land at the northern end of the site.
4. The extension targeted by the present notice comprises a parcel of land immediately to the south of the area where caravans were originally sited, but nevertheless still within the larger site area covered by the previous notice and material change of use permission.

### *The Enforcement Notice*

5. At the Hearing the parties agreed that corrections were required to Section 2 of the notice to delete superfluous wording in the site address, and to Section 3 of the notice to better describe the alleged material change of use breach of planning control. I am satisfied that these corrections can be made without resulting in injustice to either party.

### **Appeal A on ground (c)**

6. The appeal is that there has not been a breach of planning control. The appellant’s case is that the planning permission previously granted for the material change of use for residential purposes, including the siting of caravans, included the land targeted by the present notice. Accordingly, the appellant says that a further planning permission for the residential use of the land is not required in relation to the expansion of caravan siting within this part of the site. Furthermore, they say that a planning condition, restricting where caravans could be sited, was not imposed by the previous Inspector. Consequently they say there has not been a breach of planning control.
7. The Council maintains that a breach of planning control has occurred. It refers to a condition attached to the previous Inspector’s decision requiring the removal of hardstanding and site restoration in the event that the residential use ceased. It says because the area of hardstanding in question was identified on a plan attached to the decision as not including the presently targeted area, and because the Inspector’s reasoning specifically excluded consideration of hardstanding within the area presently targeted by the notice<sup>2</sup>, this demonstrates the limited extent of the use permission that the Inspector had in mind. Furthermore it refers to an approved drawing submitted by the appellant in relation to the discharge of a condition imposed which shows the siting of caravans.

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<sup>1</sup> Appeal references APP/M4320/C/20/3258166 & APP/M4320/C/20/3258167

<sup>2</sup> As set out in the Inspector’s deliberations at paragraphs 8 and 9 of the decision letter.

8. I have reviewed the previous Inspector's decision letter and reasoning. I concur with the view that there is nothing to support the position that planning permission was previously granted for operational development comprising hardstanding within the area targeted by the present notice. Such development would therefore require planning permission.
9. However, the present enforcement notice does not allege operational development, rather a material change of use. I am in no doubt that the original deemed planning application for the material change of use to residential, and accordingly the planning permission granted, related to the more extensive area of land which included the appeal site targeted by the present notice. Furthermore, whilst the conditions imposed by the previous Inspector required certain details to be agreed by the Council, this did not include the siting of caravans within the area where the residential use was permitted. Conditions were imposed to restrict the overall number of pitches and caravans on the site. However, there is no suggestion that the expansion of the site, as alleged, has resulted in there being more pitches and caravans on the site than were permitted by the previous permission.
10. I therefore conclude that, on the balance of probability, the use of the area targeted by the present enforcement notice as an 'extended' caravan site would not have required express planning permission. The laying of additional hardstanding, though facilitating the siting of caravans, does not in itself trigger the material change of use of land. The fact that a planning application was made which included material change of use, which is the subject of Appeal B, does not alter this conclusion. The ground (c) appeal therefore succeeds and the notice will be quashed.

## **Appeal B**

### **Appeal B Preliminary Matters**

11. The Appeal B site area includes the northern part of the site that was subject to the original deemed planning application and permission as referred to above. It includes the originally developed northern most part of the site and the area immediately to the south of this that was targeted by the notice to which Appeal A relates.
12. I have concluded above that planning permission has already been granted for the material change of use of the site for residential purposes including the siting of caravans. This permission would include the extended caravan site as proposed, and the stationing of a maximum 12 caravans (of which 8 would be static caravans).
13. Because the principle of the change of use has already been established, my decision therefore focuses on the merits of the additional hardstanding area, which has not already been approved as part of the original permission. However, notwithstanding the permitted use of the site, I am mindful that the hardstanding proposed plays a significant role in facilitating that use. Without the proposed hardstanding, any caravans within the southern portion of the Appeal B site would need to be sited on grass or bare ground, which could make the use of that area as a caravan site very difficult and therefore unattractive in practice. I am not persuaded that without the facilitating

hardstanding the siting of caravans in the same location would definitely go ahead<sup>3</sup>.

14. Therefore my approach is to consider the merits of the hardstanding, both in its own right and as a means of facilitating the permitted caravan site use.
15. At the Hearing the appellant set out that there was unmet need for sites in the Borough, that was not at present being addressed by the Council, in terms of a shortfall in the supply of deliverable sites. They also assert the personal circumstances of the extended family in support of the present application.
16. I acknowledge that the boundary of the appeal site includes the area where planning permission was granted by the previous Inspector for 8 pitches and up to 12 caravans. Therefore, even if the present appeal were to be dismissed, that permission would be unaffected. Accordingly it would make no difference to the availability of pitches for Gypsy and Traveller need, and would not take away a settled base for the extended family currently residing on the site. I am mindful that the need for sites and the personal circumstances of the site occupiers were matters considered in the planning balance which led to the previous Inspector granting planning permission.
17. The same matters should not therefore be taken in support of the present appeal. Any future change in the need for accommodation for the group of occupiers present on the site, should this arise, would need to be addressed if and when circumstances change in the future.
18. Rather the key issue before me, in terms of the living conditions of the appellants and other site occupiers, is the relative benefits of the additional hardstanding facilitating the spreading out of accommodation over the wider site compared to it being contained within a smaller area in the northern part of the site.

## **Main Issues**

19. The main issues are:

- Whether the development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
- The effect of the development on the openness of the Green Belt and the purposes of including land within the Green Belt;
- The effect of the development on the character and appearance of the area;
- The effect of the development on the living conditions of the site occupiers.
- If the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

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<sup>3</sup> Indeed it was accepted by Mr Brown at the Hearing that, in practical terms, caravan siting was constrained by where hardstanding was permitted.

## Reasons

20. Paragraph 142 of the Framework sets out that the essential characteristics of Green Belts are their openness and their permanence. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 143 notes that the Green Belt has five purposes which include safeguarding the countryside from encroachment. Paragraph 152 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
21. There is no dispute between the parties that the proposed hardstanding, and the use that it facilitates, would amount to inappropriate development. Indeed, with regard to the use, the Government's Planning Policy for Traveller Sites 2015 (PPTS) expressly states that such sites in the Green Belt are inappropriate development.

### *Openness and Green Belt Purposes*

22. The assessment of impact on openness is about considering the presence of the development in the context of national policy which seeks to keep Green Belt land permanently open, thus avoiding urban sprawl. The Court of Appeal has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect<sup>4</sup>. The proposed hardstanding and the various residential caravans, vehicles and paraphernalia that it would facilitate, would take up space which was previously free from development.
23. Outside the site itself, views of the development would be substantially screened, or filtered, by dense boundary planting along or adjacent to the northern, eastern and southern boundaries of the site. This, I consider, would also apply at times of seasonal leaf fall.
24. The parties agreed that the key visual receptors are elevated views from Brewery Lane, as it crosses the canal bridge to the south west of the site, and from the canal towpath to the west.
25. With regard to Brewery Lane, the absence of a footpath means that any views of the site would predominantly be to passing motorists, and then only in terms of fleeting glimpses. Because of distance, and its lack of three dimensional form, I consider any additional hardstanding over and above that already approved would be virtually imperceptible. The upper parts of caravans sited on the hardstanding would be visible, although impact on openness would be substantially mitigated by the background of similar structures on the already approved hardstanding area.
26. In terms of visibility from the towpath, the hardstanding would be entirely screened by existing boundary treatments. The upper parts of caravans would be seen as extending the depth of the site to a degree. However, from the closest viewpoints, directly to the west the site, the caravans would be substantially screened by the canal embankment and in any event would be set against the larger and more imposing building forms of the agricultural buildings associated with the development on the opposite side of Rock Lane.

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<sup>4</sup> *Turner v SSCLG & East Dorset Council* [2016].

27. Drawing these considerations together I consider that cumulatively the sense of visual impact and encroachment of the proposed hardstanding and structures facilitated would be limited. My assessment is unaltered by the operation of external lighting on the site, which could be controlled by a planning condition. So too by the physical presence of the relatively few lighting columns there.

### *Character and Appearance*

28. The site is part of a relatively flat agricultural landscape, although there are reminders of man-made interventions in the vicinity, including the adjacent canal and traffic noise associated with the M58 motorway. Given that this is an existing lawful Gypsy and Traveller site, and because of the context described above and the very limited visibility of the additional hardstanding and development which it facilitates, I find that the development would result in no harm to the character and appearance of the area.
29. I am also mindful that it would be possible to impose a planning condition to require additional planting with a view to enhancing the immediate setting of the site.
30. I conclude that the development would not conflict with Policies HC5 or EQ2 of the Sefton Local Plan 2017 (LP) insofar as they seek to avoid unacceptable harm to the local environment and for developments to respond positively to character and local distinctiveness.

### *Living Conditions of Site Occupiers*

31. The appellant has set out that they do not seek to expand the amount of accommodation on the site. The number of pitches would remain as previously approved, but would be spread over a wider area as facilitated by the hardstanding. They say the primary reason for seeking to alter the development is in the interests of the safety of children on the site, who in a more confined area, would be more vulnerable to conflicts with manoeuvring vehicles.
32. The Council's position is that the layout of the site as previously envisaged allowed for the retention of an open grassed area as a dedicated safe area for children's play, away from the comings and goings of vehicles. It therefore considers the best interests of the children to be harmed by the proposed hardstanding.
33. I am mindful that there are a large number of young children living on the site. Also that the previously envisaged site layout did not allow for significant amounts of external space, within the area where hardstanding was approved, when also allowing for the presence of caravans and the parking and manoeuvring of vehicles. I also note that it is undisputed that certain children on the site have mental health issues which is likely to mean their safety is more at risk than may otherwise be the case.
34. I acknowledge the Council's point above and note there is no dispute that the site could operate in practical terms, in accordance with the originally envisaged layout, without contravening any minimum standards or regulations. However, I am sympathetic to the view that in reality a dedicated grassed area, in itself, may not always be an attractive play space, say if ground

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conditions are wet and muddy, or if there is a shortage of equipment for children to play on or around.

35. It is also inevitable that social interactions will take place to a degree in close proximity to living accommodation and not always within a specified area away from this. On balance, when considering the number of, and circumstances of, the children I therefore consider this is a matter that attracts weight in favour of the proposal.
36. I have considered the point that the spacing out of accommodation would also allow the site occupants more privacy. However, whilst this might be desirable, when having regard to minimum standards this argument, in itself, is not compelling.

## *Other Matters*

37. Further objections to the development have been raised by third parties. Reference is made to the presence of other Traveller sites elsewhere in the Borough; also to concerns that the scale of such sites should not dominate the nearest settled community. However the level of occupation of the site, in terms of the number of pitches and caravans, would remain unchanged as a result of the present proposal and these arguments do not therefore attract weight.
38. Concerns have been raised about the development increasing the risk of flooding in the locality. However I note that the Council has raised no objection to the scheme on this ground; also that I am able to impose a planning condition with regard to the control of surface water run-off from the site. The point is made that the application is retrospective. However the Act makes provision for a grant of retrospective planning permission where appropriate, including the imposition of planning conditions.

## **Planning Balance**

39. National planning policy attaches great importance to Green Belts. Therefore, when considering any planning application substantial weight should be given to any harm to the Green Belt. The appeal proposal is inappropriate development in the Green Belt. In addition, the residential use and associated paraphernalia, facilitated by the proposed hardstanding, would cause a loss of openness and harm to one of the purposes of including land in the Green Belt, namely to assist in safeguarding the countryside from encroachment, albeit I consider harm to openness to be limited in visual terms.
40. I have not found harm to the character and appearance of the area. However this matter would be neutral in the planning balance.
41. I have had regard to advice in the PPTS when considering sites in Green Belt locations. This states that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. However, it seems to me that for the reasons set out above, the proposed development would be in the best interests of the children, which accordingly I consider should attract substantial weight.
42. I also give weight to the fact that the appeal site already benefits from planning permission for the change of use to a caravan site, without any



restrictions regarding layout and extent of pitches. The degree is tempered to 'moderate' weight, however, given that the absence of permission for hardstanding makes the siting of caravans there unlikely, for the reasons discussed above.

43. Having particular regard to the limited visual harm to the Green Belt, I consider the substantial weight attached to Green Belt harm would be clearly outweighed by the circumstances of the site occupiers in this case, when added to the weight given to the previous grant of planning permission for the change of use of the site. The very special circumstances necessary to justify the development have therefore been demonstrated. Consequently, the proposal accords with the strategy for the protection of Green Belt land, as set out in the Framework and within Policy MN7 of the LP.
44. Article 8 of the Human Rights Act 1998 states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial. Article 8(2) provides that interference may be justified where it is in the interests of, amongst other things, the economic well-being of the country, which has been held to include the protection of the environment and upholding planning policies. I am also mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
45. Given the circumstances overall, I find that granting planning permission would be proportionate and necessary. Since I have decided to allow the appeal and grant full planning permission for the proposed development there will be no interference with the appellant's rights to a private and family life and home.
46. Furthermore in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and to foster good relations. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race.
47. The grant of planning permission would go some way towards advancing equality of opportunity by recognising the circumstances of the site occupiers.

## **Conditions**

48. I have had regard to the conditions imposed by the previous Inspector, as discussed with the parties at the Hearing. A condition is necessary to restrict the occupation of the site to Gypsies and Travellers, in order to ensure the site meets the need which justifies granting the permission. The effect of the condition will be in accordance with that used by the previous Inspector.
49. Restrictions on the number of pitches and caravans reflects the scale of identified need. Restrictions on size of vehicle, site layout and a landscaping requirement are necessary to safeguard the character and appearance of the area. A condition to control surface water discharge from the site is required in the interests of environmental protection. Conditions requiring the set back of access gates and minimum visibility splays are imposed to ensure the retention

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of such measures in the interests of highway safety. A condition to ensure the importation of contaminated material is avoided is required in the interests of environmental protection and to safeguard the health of the site occupiers. Details of external lighting are required to protect the character and appearance of the area and the living conditions of nearby residents.

50. In addition I shall impose a condition requiring the removal of hardstanding in the event the use should cease. This is in keeping with the condition imposed by the previous Inspector and is necessary because if the use ceases, it is undesirable to retain engineering works that have facilitated the use. A condition is imposed confirming the approved site location plan for the avoidance of doubt.

## **Conclusions**

### Appeal A

51. On the balance of probabilities, the appeal on ground (c) should succeed in respect of those matters which, following the correction of the notice, are stated as constituting the breach of planning control.
52. The enforcement notice will be corrected and quashed. In these circumstances, the appeal on grounds (a) and (g) and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act do not need to be considered.

### Appeal B

53. For the reasons given above I conclude that the appeal should be allowed.

## **Formal Decisions**

### **Appeal A**

54. It is hereby directed that the enforcement notice be corrected as follows:

Delete the repetition of the words "Rock Lane" in the site address in Section 2 of the notice; and

Delete the description in its entirety of the alleged breach of planning control, as set out in Section 3 of the notice, and substitute the following wording instead:

"Without planning permission, the material change of use of the land from use as grassed open space to an extended gypsy / traveller caravan site facilitated by the laying of additional hardstanding."

55. Subject to the corrections the appeal is allowed and the enforcement notice is quashed.

**Appeal B**

56. The appeal is allowed and planning permission is granted for Change of use of land to form extended gypsy/traveller caravan site, including the stationing of 12 caravans for residential purposes, of which no more than 8 shall be static caravans/mobile homes, and the laying of additional hardstanding at Land west of Rock Lane, Melling L31 1EW, in accordance with the terms of the application Ref DC/2022/02372, dated 16 December 2022, subject to the conditions in the schedule below.

*R Merrett*

INSPECTOR

**SCHEDULE OF CONDITIONS**

- 1) The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.
- 2) There shall be no more than 8 pitches on the site and on each pitch there shall be no more than 2 caravans, subject to there being no more than 12 caravans on the site at any time and no more than 1 static caravan on any pitch.
- 3) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 4) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed **within 28 days** of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - (i) Within **4 months** of the date of this decision a 'site development scheme' with details for:
    - (a) the layout and extent of the pitches, the broad locations of caravans within those pitches, and the type of caravans;
    - (b) a scheme of landscaping and details of a schedule of maintenance for a period of 5 years, to include indications of all existing trees and hedgerows on the site identifying those to be retained and setting out measures for their protection throughout the course of carrying out the site development scheme;
    - (c) the draining of all surface water from the site, avoiding discharge to the public sewer where possible but if not the details shall include measures to restrict the discharge rate;

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- (d) the setting back of the access gates to the site a minimum of 6 metres from the edge of the existing carriageway to Rock Lane;
- (e) the provision of visibility splays of 2 metres x 215 metres at the junction with Rock Lane;
- (f) the source of the material for the hardstanding, quantity imported and chemical analysis results which demonstrates the material is suitable for use within the development;
- (g) proposed and existing external lighting on the boundary of and within the site;

shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

(ii) If within **9 months** of the date of this decision the local planning authority refuse to approve the site development scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

(iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.

iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) If the use of the site for residential purposes should cease, within 28 days of such cessation the hardstanding areas marked in hatched blue lines and red lines on the plans attached to this decision (Plan 1 and Plan 2) shall be removed from the site and the land restored to its former condition.
- 6) The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan.

## **END OF SCHEDULE OF CONDITIONS**



## Plan 1

This is the plan referred to in my decision dated: 16 May 2024

by **R Merrett Bsc(Hons) DipTP MRTPI**

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

**Reference: APP/M4320/W/23/3326544**

Scale: Not to Scale





### Plan 2

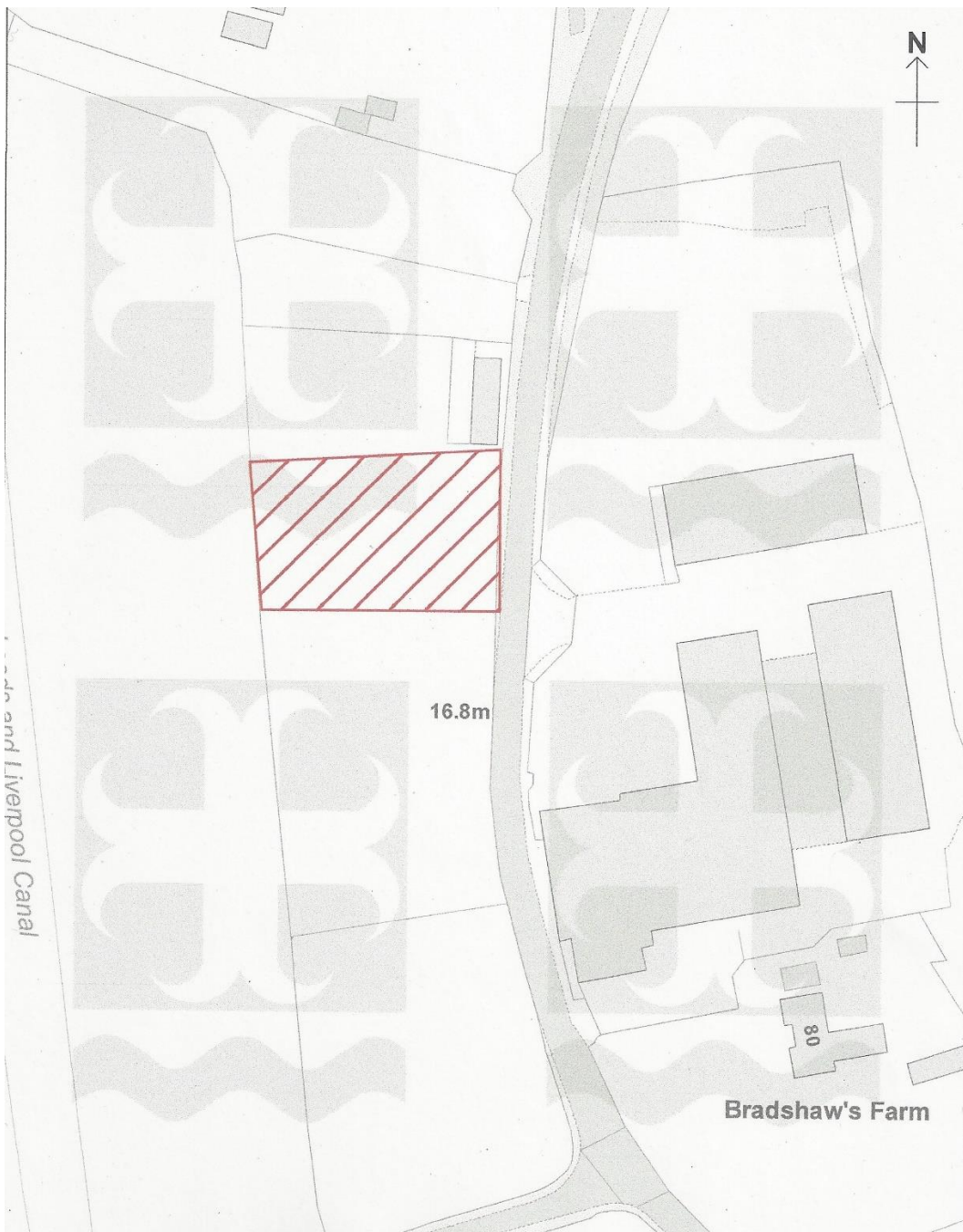
This is the plan referred to in my decision dated: 16 May 2024

by **R Merrett Bsc(Hons) DipTP MRTPI**

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

**Reference: APP/M4320/W/23/3326544**

Scale: Not to Scale



## **APPEARANCES**

### FOR THE APPELLANT:

Philip Brown	Agent
Marion Doherty	Appellant
Martin Doherty	Appellant's husband

### FOR THE LOCAL PLANNING AUTHORITY:

Catherine Lewis	Planning Officer
David Lawrenson	Enforcement Team Leader
Neil Kennard	Senior Planning Lawyer

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**Planning Committee**  
**Visiting Panel Schedule**

Date Monday 24<sup>th</sup> June 2024

Start: 10:00 am at BOOTLE TOWN HALL

Agenda Item	Time	Application Details	Ward
4A	10:30am	<b>DC/2024/00432</b> Site Of Alt Service Station Northway, Maghull L31 5LH	Molyneux
4B	10:40am	<b>DC/2024/00746</b> Summerhill Primary School Poverty Lane, Maghull L31 3DT	Sudell

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