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MEETING: PLANNING COMMITTEE

DATE: 24th July 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
Cllr. 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

If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.

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

AGENDA

1. Apologies for Absence

2. Declarations of Interest

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

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

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

3. Minutes of the Previous meeting (Pages 5 - 8)

Minutes of the meeting held on 26 June 2024.

4. Applications for Planning Permission - Petitions

A DC/2024/00479 - 31 Clovelly Drive, Birkdale (Pages 9 - 18)
Report of the Chief Planning Officer

5. Applications for Planning Permission - Approvals

A DC/2024/00421 - 5 School Road, Hightown (Pages 19 - 26)
Report of the Chief Planning Officer

B DC/2023/00065 - Land Bounded By Poverty Lane To The South, A Railway Line To The West. Whinny Brook To The North And The M58 Motorway To The East, Maghull (Pages 27 - 52)
Report of the Chief Planning Officer

- C DC/2023/02111 - Land To The North East Of Poverty Lane North West Of Harrier Close Poverty Lane, Maghull** (Pages 53 - 76)
Report of the Chief Planning Officer
- D DC/2024/00306 - Former Gasworks Litherland Road, Bootle** (Pages 77 - 86)
Report of the Chief Planning Officer
- 6. Planning Appeals Report** (Pages 87 - 108)
Report of the Chief Planning Officer
- 7. Visiting Panel Schedule** (Pages 109 - 110)
Report of the Chief Planning Officer

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

PLANNING COMMITTEE

MEETING HELD AT BOOTLE TOWN HALL ON 26 JUNE 2024

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

Councillors Brough, Desmond, Dodd, Johnson,
John Kelly, Sonya Kelly, McGinnity,
Christopher Page, Richards, Thompson, Williams
and Thomas

ALSO PRESENT: Councillor Veidman

11. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Roche and Tweed.

12. DECLARATIONS OF INTEREST

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

13. MINUTES OF THE PREVIOUS MEETING

RESOLVED:

That the Minutes of the meeting held on 5 June 2024 be confirmed as a correct record.

14. DC/2024/00432 - SITE OF ALT SERVICE STATION NORTHWAY, MAGHULL

The Committee considered the report of the Chief Planning Officer recommending that the above 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 2 No. drive thru units be granted subject to the conditions and for the reasons stated or referred to in the report.

RESOLVED:

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

Agenda Item 3

PLANNING COMMITTEE - WEDNESDAY 26TH JUNE, 2024

15. DC/2024/00746 - SUMMERHILL PRIMARY SCHOOL POVERTY LANE, MAGHULL

Further to Minute No. 109 of 26 July 2023, the Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of a two - storey extension classroom block, extending of existing hall, provision of internal mezzanine floor and raising of hall roof; the 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) be granted subject to the conditions and for the reasons stated or referred to in the report.

RESOLVED:

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

16. 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
MBNL	DC/2023/01727 (APP/M4320/W/24/3336617) - proposed Telecommunications Site, Slaidburn Crescent Southport - appeal against refusal by the Council to grant 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.	Allowed 03/06/2024
Mr. C. Wright Melford Construction Ltd.	DC/2021/01740 (APP/M4320/X/24/3336597) - 100 Guildford Road Birkdale Southport PR8 4JZ appeal against refusal by the Council to grant Planning Permission for a Certificate of Lawfulness for the shed in the rear garden of the dwellinghouse	Dismissed 17/05/2024
Mr. C. Wright Melford Construction Ltd.	DC/2023/00228 (APP/M4320/W/24/3336615) - 100 Guildford Road Birkdale Southport PR8 4JZ - appeal against refusal by the Council to grant Planning Permission for the erection of a detached dwellinghouse to the side garden area with a new access to Shaw's Road.	Dismissed 17/05/24

Agenda Item 3

PLANNING COMMITTEE - WEDNESDAY 26TH JUNE, 2024

Mrs. M. Doherty	EN/2023/00234 (APP/M4320/C/23/3326585) - Caravan Park 105 Rock Lane Melling L31 1EW - appeal against refusal by the Council to grant Planning Permission for 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.	Quashed 16/05/24
Mrs. M. Doherty	DC/2022/02372 (APP/M4320/W/23/3326544) - Land West Of Rock Lane Rock Lane Melling - appeal against refusal by the Council to grant Planning Permission for the 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).	Allowed 16/05/2024

RESOLVED:

That the report be noted.

17. VISITING PANEL SCHEDULE

The Committee considered the report of the Chief Planning Officer which advised that the undermentioned sites had been inspected by the Visiting Panel on 24 June 2024.

Application No.	Site
DC/2024/00432	Site Of Alt Service Station Northway, Maghull
DC/2024/00746	Summerhill Primary School Poverty Lane, Maghull

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:** 24th July 2024

Subject: [DC/2024/00479](#)
[31 Clovelly Drive Birkdale PR8 3AJ](#)

Proposal: Change of use of the existing garage to a short-term holiday let (Retrospective)

Applicant: Mr Jack Leader **Agent:** N/A

Ward: Birkdale Ward **Type:** Full Application

Reason for Committee Determination: Petition endorsed by Cllr Brodie - Browne

Summary

The application seeks planning permission (retrospectively) for the conversion of a former detached garage into single holiday letting accommodation. The accommodation comprises of a small upvc entrance porch, open plan kitchen, sitting and sleeping area, and a bathroom. Externally to the front is a driveway shared with the applicant's main house. To the rear is a small external seating area fenced off from the main garden.

The holiday let is modest in size and can accommodate 2 people, with limited additional comings and goings. The boundary treatments provide a good degree of screening, and the building is separated from the nearest neighbouring property by a public footpath. The development does not cause significant harm to living conditions of neighbouring occupiers, it does not harm the character and appearance of the area, and sufficient off-street parking is provided. The development accords with Sefton's Local Plan and is recommended for approval.

Recommendation: Approve with Conditions

Case Officer Mr Rob Cooper

Email planning.department@sefton.gov.uk

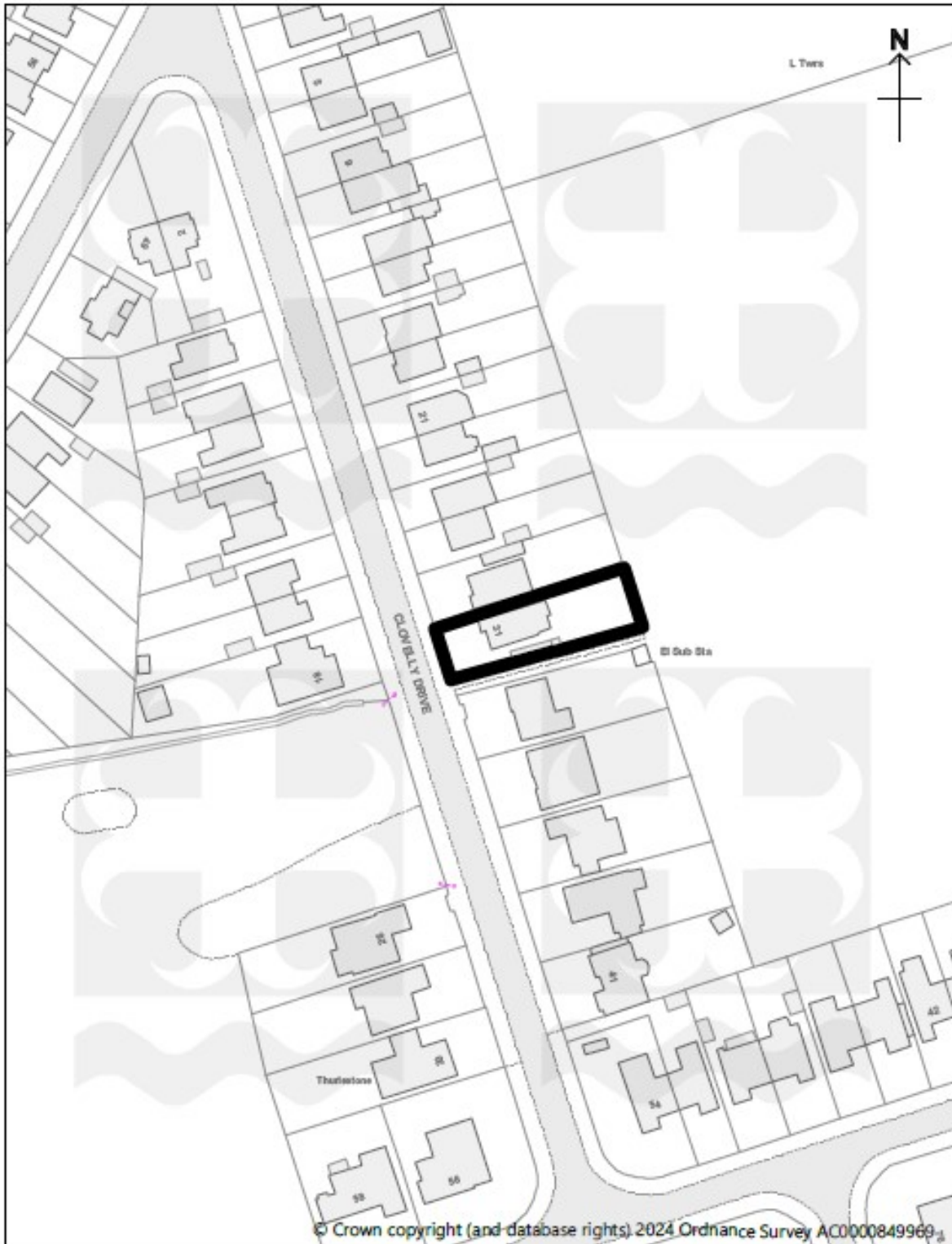
Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SACFFGNWJRQ00>

Agenda Item 4a

Site Location Plan



The Site

The application site is a former domestic garage, associated with the detached dwelling at 31 Clovelly Drive, Birkdale. To the side of the property is a pedestrian access linking Clovelly Drive to Southport Rugby Club fields located to the rear of the dwelling. Southport and Ainsdale golf course is located to the southeast on the opposite side of Clovelly Drive.

History

There are no recent relevant planning permissions.

Consultations

Environmental Health

No objection

Highways Manager

No objection

Natural England

No objection

Merseyside Fire and Rescue

No objection, informative recommended

Neighbour Representations

Objections have been received from the occupiers of 5 local residents, raising the following concerns:

Impact on character

- Out of character with residential area
- Lack of storage for bins which are left on view to the road.

Impact on living conditions

- Increase in comings and goings, unsocial hours and noise
- Sound insulation they've heard children crying when left in porch
- Adjacent to a pedestrian walkway used by dog walkers and pedestrians accessing the rugby

Impact on Highway Safety

- Existing occupiers choose to park on the road

Agenda Item 4a

- When rugby fields being used vehicles also park on Clovelly Drive causing congestion
- Highways safety, increased development in the area and its effect on Hillside Crossroads
- The drive should be extended to accommodate more cars

Other matters

- Concerns that the main dwelling may also be used as a guest house in the future
- Used as Airbnb without planning permission
- The former garage has been occupied by one family for a prolonged period of time
- Also built an extension to main dwelling and converted the loft without building regulations
- Accuracy of plans and supporting information, plans do not show shrubberies, the garage did not previously have a toilet or shower, it was not dilapidated, and neighbours were not notified by applicant of their intentions.

A petition signed by 42 local residents and endorsed by Cllr Brodie-Browne has also been received on the grounds that this is a strong residential area, and a business of this nature would seriously impact on its charm and character.

Policy Context

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

Assessment of the Proposal

1. The main issues for consideration are the principle of development, effects of the development on the character of the area, living conditions of neighbouring occupiers, living conditions of occupiers of the development, and highways safety.

2. Principle of Development

2.1 The application site is situated within a Primarily Residential Area subject to adopted Local Plan Policy HC3 (Primarily Residential Areas), which only permits non-residential development when it can be demonstrated that it would not have an unacceptable impact on the living conditions of neighbouring occupiers and that the character of the area will not be harmed.

2.2 The principle of the development in land use terms is therefore acceptable. Matters in relation to the impact character and living conditions are addressed below.

3. Character of the area

3.1 The holiday let accommodation comprises of a small upvc entrance porch, open plan kitchen, sitting and sleeping area, and a bathroom. Externally to the front, there is room for one car parking space on the existing driveway shared with the applicant's house, whilst to the rear is a small external seating area fenced off from the main garden. The rendered finish and tiled roof and overall domestic appearance of the building has been retained, which is in keeping with the main dwelling, and the surrounding residential area.

3.2 Concerns have been raised in relation to the residents of the property storing their bins to the front of their house, which are visible from the road. There are no planning restrictions preventing them or any other residents in the street from doing this. However, the applicant has retained access to the side of the main dwelling, and to the side of the holiday let that does allow for bins to be stored behind the building line.

3.3 The overall scale, layout and appearance of the development is appropriate and in keeping with the residential character of the area and would not harm the street scene. The proposal therefore complies with Policy EQ2 (Design) of the Sefton Local Plan.

4. Living conditions of neighbouring occupiers and future occupiers

4.1 While holiday let's do not fall under the same Use Class (C3) as a residential dwelling, the holiday let is modest in size and not substantially different to that of a one bed granny annex. It can accommodate 2 people, minimising the number of comings and goings to the property. The existing high level boundary treatment provides a good degree of screening enclosing any activities within, and the building is separated from the nearest neighbouring property by a public footpath.

Agenda Item 4a

4.2 It is accepted that the building would introduce transient accommodation, where the nature of comings and goings may be different to that of a traditional house. However, given the small scale of the property and limited number of persons expected to be staying at any one time the impact of this is not significant.

4.3 The Environmental Health Manager has been consulted and notes that Environmental Health have no records of previous complaints in relation to noise and disturbance. They note that the application is retrospective and would have recommended conditions in relation to noise control of plant and equipment and external lighting. Given the development does not involve any plant or machinery and no concerns have been raised in relation to lighting, these conditions are not considered to be necessary.

4.4 With regards to the living conditions of the occupiers of the holiday let, the Council does not have any relevant standards or guidance regarding room sizes, or the provision of private amenity space. However, if it were to be used as a permanent dwelling it would not meet the Councils adopted guidance for new homes. A condition could be attached to ensure that it is only used for short term holiday let and not as a private house.

4.5 Neighbours have raised concerns in relation to the holiday lets proximity to the footpath linking Clovelly Drive to the rugby fields to the rear. There are no windows on the side elevation of the holiday let, adjacent to the footpath. And the small private amenity space is well enclosed. Therefore this is unlikely to cause any significant disturbance to its occupiers.

4.6 The development does not cause significant harm to the living conditions of neighbouring occupiers and does not give rise to concerns associated with the living conditions of future occupiers. In this regard, the development is consistent with Policy EQ2 of the Sefton Local Plan.

5. Highway safety

5.1 The development is accessed via the existing footway crossing and served by the existing driveway shown on the submitting drawings as providing two off-street parking spaces, to be shared by the occupants of the main dwelling and the holiday let. In practice, the dimensions of the driveway would likely allow for parking of three vehicles, and there are no parking restrictions on Clovelly Drive.

5.2 Given the scale of the development, it would not cause any significant increase on traffic on the surrounding highway network. The Highways Manager has been consulted and has no objections, he is satisfied with the parking provision, the proposal would not result in adverse highway safety implications.

5.3 The development meets the aims of Policies EQ2 and EQ3 (Accessibility) and the objectives of the Sustainable Travel and Development Supplementary Planning Document.

7. Other Matters

7.1 Concerns raised with regards to building regulations is a separate matter however it is understood that the applicant has submitted regularisations to the building control department for the holiday let and the rear extension to the main dwelling.

7.2 Objections have been made that the former garage has previously been occupied by one family as residence for a prolonged period, and that the main dwelling may also be used as a guest house in the future. This would be a separate matter and not subject of this application, which must be assessed on its own merits.

7.3 Whilst the former garage has been used as Airbnb without planning permission, this application seeks to regularise this issue.

7.4 As well as this garage conversion, the applicant has previously built an extension to the main dwelling and converted the loft without building regulations approval for works. This is dealt with under separate legislation and is not a planning matter. It is understood that the applicant has applied to regularise this matter.

7.5 With regards to the accuracy of plans and supporting information, sufficient details have been provided to accurately assess the development which has been applied for retrospectively. There is no mandatory requirement for applicants to notify neighbours of their intentions, although it is encouraged.

8. Planning Balance and Conclusion

8.1 The holiday let maintains the residential character and appearance of the area. It's modest in size would generate minimal additional comings and goings. High level boundary treatment provides a good degree of screening around the site, and the footpath to the side provide a good degree of separation from the nearest neighbouring property. The development does not cause significant harm to living conditions of neighbouring occupiers and levels of parking are acceptable. The development complies with Policies HC3, EQ2 and EQ3 of the Sefton Local Plan.

9. 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;

Agenda Item 4a

- 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

Approved Plans

- 1) The development shall be carried out in accordance with the following approved plans and documents:
 - Location Plan
 - Site Plan
 - Existing and proposed floor plan

Reason: For the avoidance of doubt.

Ongoing Conditions

- 2) The holiday let (identified as the Airbnb on the approved Site Plan) shall be used as short-term holiday let accommodation only and shall not be used as a person's sole or main place of residence or for any other use falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The holiday accommodation shall not be occupied by the same person(s) for a period exceeding one month continuously, disregarding any interruption in occupation of less than one month.

Reason: In order to prevent the building from being used as a permanent residence, to protect the character of the area, the living conditions of nearby occupiers and the occupiers of the development.

- 3) An up-to-date register containing the names, main addresses and arrival and departure dates of all occupiers shall be kept at the accommodation hereby permitted and be made available for inspection by the Local Planning Authority upon request.

Reason: In order to prevent the building from being used as a permanent residence, to protect the character of the area, the living conditions of nearby occupiers and the occupiers of the development.

Informatives

1) Merseyside Fire and Rescue

The plans relating to the above application have been examined and below are the Fire Authority's observations:

Access for fire appliances should comply with the requirements of Approved Document B5 of the Building Regulations.

Water supplies for fire-fighting purposes should be risk assessed in accordance with the undermentioned guidance in liaison with the water undertakers (United Utilities - 0161 907 7351) with suitable and sufficient fire hydrants supplied. (Select relevant paragraph)

Housing

Housing developments with units of detached or semidetached houses of not more than two floors should have a water supply capable of delivering a minimum of eight litres per second through any single hydrant. Multi occupied housing developments with units of more than two floors should have a water supply capable of delivering a minimum of 20 to 35 litres per second through any single hydrant on the development.

* The premises should comply with Section 55 of the County of Merseyside Act 1980

2) Building Regulations may also be required.

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Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 24TH July 2024

Subject: [DC/2024/00421](#)
[5 School Road, Hightown L38 0BN](#)

Proposal: Erection of a first floor extension to the side, single storey to the rear, a single storey garden store in the rear garden and installation of a new shop front.

Applicant: Mrs Sutharsan Kandiah **Agent:** Mr Mike Carr
5 School Road, Hightown MAT DESIGN LIMITED

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

Reason for Committee Determination: Called in by Cllr McNabb

Summary

This proposal is for the erection of a first floor extension to the side, single storey extension to the rear, a single storey garden store in the rear garden and installation of a new shop front.

The main planning issues for consideration include the impact of the proposed works on the living conditions of neighbouring residents and the impact on the character of the area and wider street scene.

It is considered the proposed extension and alterations to the application property would not cause significant harm to the living conditions of neighbouring properties and would be of an acceptable design. The proposal would comply with Policies HC4 (House Extensions, Houses in Multiple Occupation/Flats), and EQ2 (Design) of the Local Plan.

Recommendation: Approve with Conditions

Case Officer Christine Griffiths

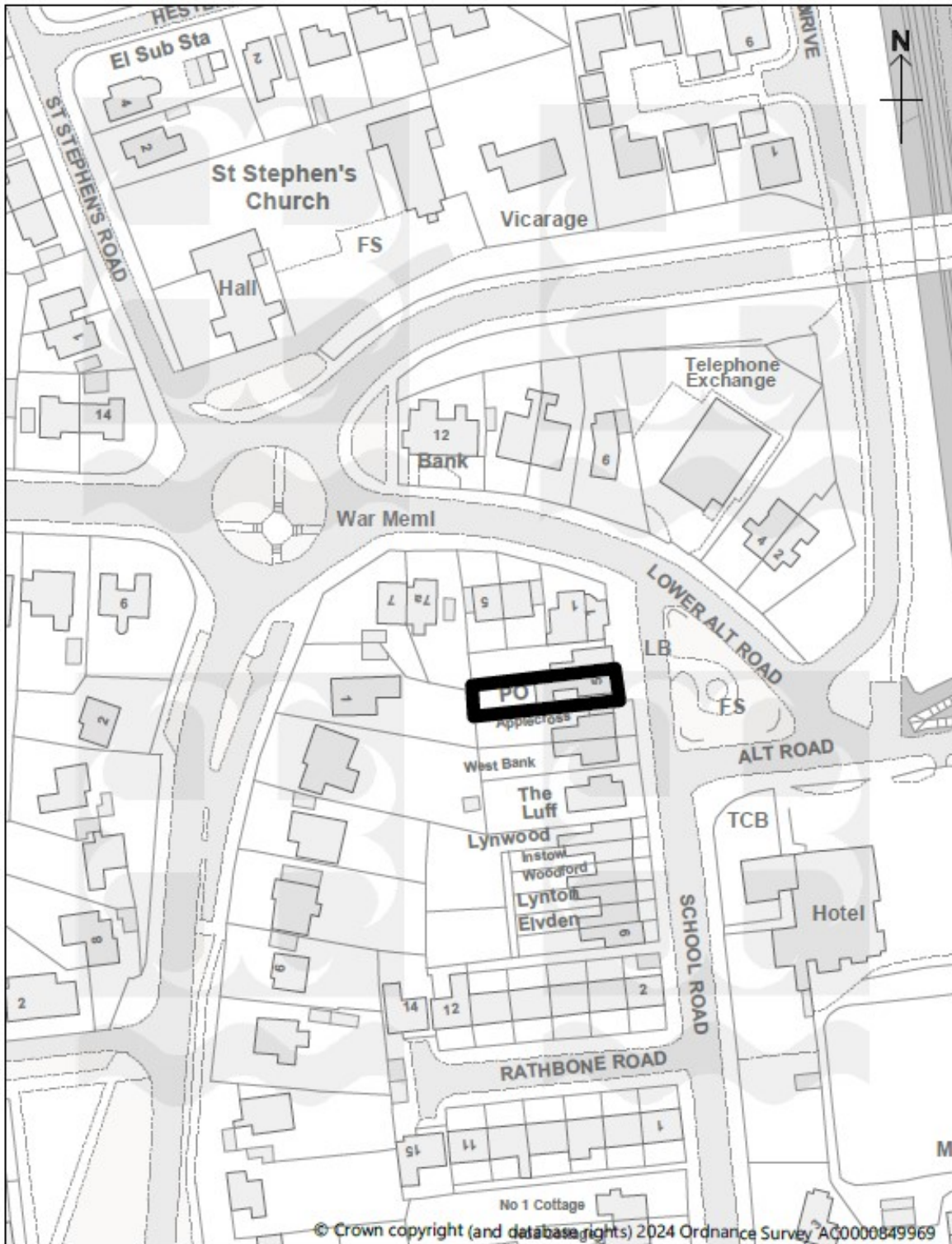
Email planning.department@sefton.gov.uk

Telephone 0345 140 0845

Application documents and plans are available at:
<https://pa.sefton.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

Agenda Item 5a

Site Location Plan



1 The Site

- 1.1 The application site consists of a semi-detached, two storey building which although presently vacant, has a long standing use as a post office at ground floor with residential accommodation above.
- 1.2 The adjoining premises is a small general store at ground floor known as 'The Village store' with residential accommodation above. A house is situated to the other side.
- 1.3 The area is primarily residential in character.

2 History

- 2.1 There is no relevant planning history.

3 Consultations

- 3.1 The following consultee responses have been received:

Environmental Health Manager- No objections.

Highways Development Design Manager – No objection.

Natural England - No objections

4 Neighbour Representations

- 4.1 Neighbours were originally notified by letter on 15th March 2024. Revised drawings were subsequently submitted to correct the boundary lines which were wrongly displayed on the original drawings. Neighbours were then renotified by letter on the 22nd May 2024.
- 4.2 Correspondence has been received from residents within the vicinity objecting on the following grounds:

Living Conditions

- Opposed to change in hours of opening.
- Possible anti-social behaviour
- Access for stock deliveries/noise
- Impact upon overshadowing and outlook and overlooking

Agenda Item 5a

Design

- Poor design within street scene

Impacts on Highways

- Lack of parking

Other Matters

- Application form states 1 previous employee when there were two originally
- Conflict of interest with adjacent business
- Impact upon workforce
- Security issues
- A further site meeting is required
- Issues with Party Wall Act/Access to build/Boundary encroachment
- The dimensions/details on plans are incorrect and do not show a residential unit.

4.3 In addition, Cllr Dominic McNabb has called in the application on the following grounds:

- Design quality,
- Harmful to highway safety
- Harmful impact on the economy.

5 Policy Context

5.1 The application site is situated in an area designated as Primarily Residential in the Council's Adopted Local Plan.

6 Assessment of the Proposal

6.1. The main planning issues for consideration include the impact of the proposed works on the living conditions of neighbouring residents and the impact on the character of the existing property and wider street scene.

Living conditions of neighbouring occupiers

6.2 This proposal is for the extension and alteration of the existing premises. Although the premises is currently vacant, the application does not seek to change the existing use of the premises which as a post office falls within Use Class E. The upper flat would remain as a residential use (i.e. Use Class C3).

6.3 The attached neighbouring property, has a commercial use at ground floor with residential accommodation above. The proposal would not impact on the living conditions of the neighbouring property due to the scale and location of the proposed works.

- 6.4 Number 7 School Road, named Applecross, is positioned to the south of the application site. Due to the existing layout of these two properties, with single storey extensions being added historically to both, ground floor windows in the main house of this adjacent neighbour are already overshadowed. Considering the orientation of the two properties, the distance that will be maintained, and the high boundary treatment, it is considered a further 2m extension to this property's existing single storey rear extension would not result in any significant harm to the neighbour either as a result of overshadowing or impacting on the neighbours outlook from habitable room windows.
- 6.5 The gables of both No.7 and the application property run in line with each other and the two storey side extension will not project past either the main front or rear elevations of the neighbour. There are no windows to side gable of neighbouring property and no windows proposed in the side elevation of the two storey extension. As such it will not significantly impact upon overshadowing or outlook to this neighbour, and would not present any overlooking concerns. Acceptable distances would be maintained to properties to the front and rear.
- 6.6 The detached garden room/store would be located to the rear boundary and of a scale that would not give rise to overlooking, overbearing or overshadowing concerns.
- 6.7 Concerns have been expressed regarding potential antisocial behaviour, noise associated with delivery access and changing in opening hours. The application does not seek to change the use of the premises, the opening hours and delivery arrangements beyond that which could already occur. There is no evidence to suggest that the extensions proposed would give rise to anti-social behaviour.
- 6.8 The proposal would comply with Policy HC4 and EQ2 of the Local Plan, in that it does not create an unacceptable impact upon the living conditions of the occupiers of neighbouring properties in relation to overlooking, overshadowing or outlook.

Street Scene

- 6.9 The two storey side extension would be subordinate in scale and would be set back with a reduced ridge height. It will be constructed of materials similar in appearance to the existing building and as such would be of an acceptable design.
- 6.10 Whilst the main shop front window will be made slightly larger, it would not be too dissimilar to what is existing and as such would be acceptable. The single storey rear extension and garden room/store would also be of an acceptable design.
- 6.11 It is considered that the proposal would be of an acceptable design and would not cause detriment to the character of the area or wider street scene. The proposal would comply with Policy EQ2 of the Local Plan.

Agenda Item 5a

Other Matters

- 6.12 The proposed extension would provide separate access up to the first floor flat, whilst the rear extension would result in a small increase in the footprint of the premises. The use would remain within Use Class E. Whilst there is a lack of on street parking, this would not be any different to the current arrangement and the proposal would not make this worse.
- 6.13 Various other matters have been raised by local residents, a number of which are not material considerations. Nevertheless, they do not raise specific concerns that would outweigh the key material considerations addressed above.

7 Conclusion

- 7.1 The proposed extension and alterations to the application property would not cause significant harm to the living conditions of neighbouring properties and would be of an acceptable design. The proposal complies with Policies HC4, and EQ2 of the Local Plan. The proposal is acceptable and is recommended for approval subject to conditions.

8 Equality Act Consideration

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

Recommendation - Approve with Conditions

Time Limit for Commencement

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

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

Approved Plans

- 2) The development hereby granted shall be carried out strictly in accordance with the following details and plans: Existing and Proposed Plans reference Number 1 dated Dec 2019, Number 2 Rev A & Number 3 Rev A dated March 2024

Reason: To ensure a satisfactory development.

During Building Works

- 3) The external surfaces of the building(s) shall be constructed of the materials to match those existing as depicted on the Planning Application Form.

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

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Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 24th July 2024

Subject: [DC/2023/00065](#)
[Land Bounded by Poverty Lane to The South, A Railway Line to The West,
Whinny Brook to The North and The M58 Motorway to The East Maghull](#)

Proposal: Variation of condition 2 pursuant to planning permission DC/2017/01532 allowed on appeal ref APP/M4320/W/20/3257252 date: 22/02/2021 - to be changed to: No more than 498 dwellings shall be occupied until the distributor road between Poverty Lane and School Lane, as shown on drawing A083347 91-18-C001-rev-E (or a subsequently approved version thereof), is constructed and available for use by the public.

Applicant: Countryside Partnerships and **Agent:**
Persimmon Homes

Ward: Sudell Ward **Type:** Variation of Condition

Reason for Committee Determination: Discretion of Chief Planning Officer

Summary

This application seeks to vary condition 2 so that an additional 248 homes can be built and occupied before completion of the distributor road connecting Poverty Lane to School Lane.

The main issues to consider are principally highways-related but also involve impacts on living conditions and the phasing of the development such as the provision of housing (including affordable housing) and public open space across the site.

The report concludes that the proposal is acceptable and, on balance, it is recommended that the permission can be varied to allow occupation of an additional 248 homes.

Recommendation: [Approve with conditions subject to the completion of a Section 106 deed of variation to secure highways improvements](#)

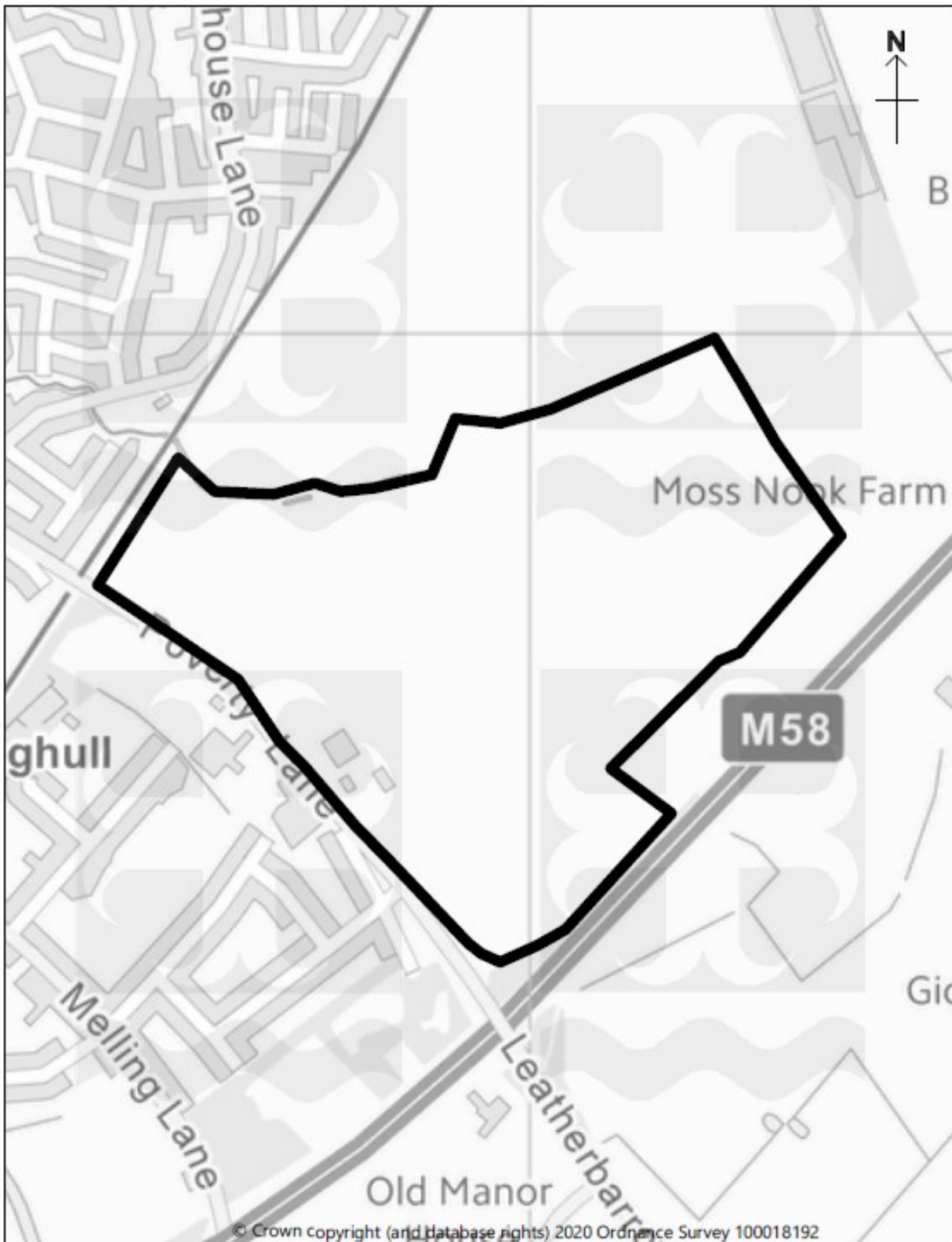
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Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=ROEZKINWM3V00>

Site Location Plan



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The Site

The application site is bordered by Whinny Brook to the north, arable fields to the north-east and south-east, the M58 motorway to the south-east, Poverty Lane to the south-west and the Liverpool to Ormskirk railway line to the north-west.

The site is part of the largest single allocation in the Sefton Local Plan known as 'Land east of Maghull' and has planning permission for the erection of 841 homes which are currently under construction.

History

Application Site

Planning permission was allowed on appeal on 22 February 2021 (DC/2017/01532) for a residential development of 841 homes plus outline planning permission for an older persons' housing scheme on the current application site.

Since that time there have been numerous applications submitted to approve the details reserved by planning conditions as well as two applications for 'non-material amendments' to the approved scheme.

An application for a residential care home (DC/2023/02111) is presently being assessed on part of the site and is being considered elsewhere on this agenda.

Neighbouring Site north of Whinny Brook

Outline planning permission was granted on 12 October 2021 (DC/2017/01528) for a residential development of up to 855 homes, an older persons' housing scheme and a mixed-use local centre on land directly north of the application site and also within the larger 'Land east of Maghull' allocation. This decision gave full planning permission for a new vehicular access from School Lane, a distributor road through the site and a flood relief channel. These latter two works connect through to the current application site.

A 'reserved matters' application (DC/2023/01962) is presently under consideration relating to a development of 249 homes on part of this site.

Consultations

Highways Manager

Initial comments received on 16.02.23 objecting to the proposal as the traffic impact note did not properly assess the impact of increasing the number of dwellings using the Poverty Lane access from 250 to 498 before the spine road is fully built.

Whilst the Highways Manager has not provided final comments on the updated traffic impact note submitted in June 2024, they have identified several inaccuracies.

National Highways

No objection

Active Travel England

No comment

Maghull Town Council

Object on the grounds that the proposal is contrary to development plan policy, it would contribute to the delay in the delivery of necessary infrastructure including the spine road and bus route and the traffic assessments contain inaccuracies

Melling Parish Council

Object on the grounds of extra disruption to roads and residents from construction traffic

Councillor Desmond

Concerned about delivery of the homes and spine road on this important site and question if the Council has any powers to resolve this; proposal will add to traffic congestion in Maghull

Local Plans Manager

No objection

Environmental Health Manager

No objection

Flooding and Drainage Manager

No objection

Merseyside Environmental Advisory Service

No comments

Tree Officer

No objection

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Natural England

No comments

Building Control Manager

No objection

Fire and Rescue Service

No objection

Knowsley Council

No comments

Network Rail

No comments

Neighbour Representations

A petition has been submitted to speak at Planning Committee and is endorsed by Councillor Murphy. The application has also been 'called in' to be considered by Planning Committee by Councillors Hardman and Hart.

Under the Council's constitution, this type of application (a variation of condition) does not need to be considered at Planning Committee irrespective of any petition or 'call-in' request. However, this particular application is brought to Planning Committee at the discretion of the Chief Planning Officer.

Individual objections have been received from approximately 40 residents of Maghull and Melling as well as one from Bill Esterson MP.

The grounds of objection are summarised below:

Highways

- Traffic report doesn't consider full impact of the proposal on Poverty Lane which is already at capacity and beyond at peak times
- More damage to roads from construction traffic
- Increased traffic and Maghull roads already saturated
- Impact on school children on Poverty Lane
- Lack of pedestrian crossings

Living Conditions

- More traffic and noise disturbance to local residents of Maghull and Melling as well as Summerhill Primary School during the extended construction period
- Increased light pollution

Infrastructure

- More strain on medical services
- Increased pressure on train station car park
- Infrastructure already over-stretched
- No extra amenities

Planning Policy

- Contrary to Local Plan policy and Masterplan

Other Issues

- Loss of green fields and prime agricultural land
- Loss of character and identity
- Greater disruption to wildlife
- No need for more houses
- Too many new houses

Policy Context

The application site lies within an area designated as a Strategic Mixed-Use Allocation in the Sefton Local Plan which was adopted by the Council in April 2017.

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

Assessment of the Proposal

1. Introduction

1.1 The application site forms a significant part (roughly one third) of the largest single allocation in the Sefton Local Plan. It has planning permission to build 841 homes and much of the first phase comprising 250 homes has been completed.

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1.2 The development is subject to a condition (condition 2 of application DC/2017/01532) such that no more than 250 dwellings can be occupied until the distributor/spine road extending through the larger allocated site connecting Poverty Lane and School Lane is built and ready for use.

1.3 The current application seeks to vary condition 2 so that an additional 248 homes (498 homes in total) can be occupied before completion of the spine road.

2. Reason for the Application

2.1 The developers on the subject application site have delivered most of the shared infrastructure on their site, namely the spine road from Poverty Lane to Whinny Brook (except for a 50m stretch at the northern end), the whole flood relief channel and spine road connection over it, and a further 10m stretch of road into the northern site. The spine road on the adjacent site between Whinny Brook and School Lane has not been built. Construction of the spine road by the consortium on the adjacent development site north of Whinny Brook had been expected to be much more advanced at this stage but works have not commenced and this is outside the control of the current applicants/developers. The southern site cannot progress with the remaining 591 homes until the spine road is completed.

2.2 The developers on the current application site have almost completed Phase 1 (250 homes, the flood relief channel and spine road) within their site but will shortly need to vacate the site if they cannot progress further causing significant risk to provision of the remaining housing on this strategic housing allocation site.

2.3 Approval of the current application would allow the developers to progress with the delivery of an additional 248 homes already granted planning permission under application DC/2017/01532.

3. Policy Background

3.1 The Sefton Local Plan and Maghull Neighbourhood Plan together make up the development plan for the application site. The over-arching theme throughout the relevant 'land east of Maghull' development plan policies and additional planning guidance documents referred to below is to deliver a comprehensive high quality and well-designed sustainable urban extension.

Local Plan

3.2 The application site is subject to policy MN3 'Land East of Maghull' in the adopted Sefton Local Plan which sets out detailed policy requirements for the site.

3.3 Part 2 of the policy requires proposals on the site to be consistent with a single detailed master plan for the whole site which is approved by the Council.

3.4 Part 6 of the policy states that certain phasing requirements will be applied to ensure that the

required infrastructure is provided alongside new development. Part 6c states that no more than 250 dwellings will be served from Poverty Lane and no more than 250 dwellings will be served from School Lane / Maghull Lane, prior to the completion of the internal bus route / distributor road.

Neighbourhood Plan

3.5 Maghull Neighbourhood Plan policy MAG 6 'Land East of Maghull Master Plan' specifies that planning applications submitted for the land east of Maghull site must accord and adhere to the terms of the Approved Master Plan.

Supplementary Planning Document

3.6 Additional guidance is provided in the 'Land east of Maghull' Supplementary Planning Document.

Masterplan

3.7 A masterplan for the development of the 'Land east of Maghull' allocation was approved in January 2019. Section 9 outlines phasing requirements and section 10 covers infrastructure delivery.

4. Principle of the Development

4.1 Whilst the principle of building an 841 home residential development on the application site has been established through planning application DC/2017/01532, the proposal to alter the phasing requirement specified in condition 2 does not fully accord with Local Plan policy MN3 (part 6c). However, an assessment of the proposal's impacts must be made to establish the level of harm caused, in particular in relation to impacts on highway safety, living conditions and phasing requirements.

5. Highway Safety

5.1 A Traffic Impact Note was submitted with the application and reviewed by the Highways Manager. The note assessed the impact of accessing the additional 248 homes from Poverty Lane before completion of the spine road through to School Lane.

5.2 The Highways Manager accepted that there would be no adverse highway safety impacts at the access to the development site as the new Poverty Lane roundabout junction had been designed to accommodate more than 500 dwellings.

5.3 However, the Highways Manager raised an objection on the grounds that the impact note did not properly assess the impact of the proposal on the wider area, citing reasons such as out-of-date data usage and the need to undertake more junction modelling and updated junction

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modelling.

5.4 The applicants have since held discussions with the Highways Manager and have agreed the scope of their Traffic Impact Note with a second updated version submitted in mid-June 2024. This updated traffic impact note concludes that:

- The Poverty Lane/site access junction would operate under-capacity during peak times with development traffic from the combined Phase 1 and Phase 2 developments
- Other road junctions in the area, namely the Poverty Lane/Foxhouse Lane, Hall Lane/Station Road, Hall Lane/Damfield Lane, Northway/Eastway, Eastway/Deyes Lane, Northway/Kenyons Lane and A59/Damfield Lane junctions, would all operate within their respective design capacities, with negligible increases in traffic queues at some of the junctions, and these impacts would not be 'severe'
- The proposed Sefton Council scheme for one-way (eastbound) traffic distribution along Hall Lane would result in the Hall Lane/Damfield Lane junction operating over-capacity during the morning peak hour. It would also significantly increase queue lengths along the A59/Hall Lane junction by up to 21 PCUs (passenger car units) during the morning but only 3 PCUs during the evening peak hour
- One existing junction would be adversely affected should the existing two-way traffic distribution be retained, namely the A59/Hall Lane junction with two of the six arms at this junction operating above the theoretical capacity

5.5 In order to mitigate the impacts identified, the updated traffic impact note recommends that the proposed one-way system along Hall Lane is delayed and advises that the developers would be willing to make a financial contribution to potential improvements at the A59/Hall Lane junction. This would be in addition to the financial contribution they have already made towards improvements at this junction and could be secured through a deed of variation to the completed Section 106 legal agreement. The modelling concludes that on this basis the proposal would not result in unacceptable highways impacts.

5.6 The traffic note concludes that the proposal to build and occupy an additional 248 homes accessed from Poverty Lane before completion of the spine road through to School Lane is unlikely to have a severe impact on any of the junctions within the study area. This is subject to the implementation of junction improvements at the A59/Hall Lane junction and a delay to the implementation of the proposed one-way system on Hall Lane.

5.7 In terms of planning policy, based on the above conclusions set out within the applicant's updated traffic impact note, the proposal would not conflict with paragraph 115 of the National Planning Policy Framework (December 2023) which states that development should only be refused on highways grounds if the impact on the road network would be severe.

5.8 The proposal also complies with Local Plan policy EQ3 'Accessibility' in respect of its impacts on the local highway network.

6. Living Conditions

6.1 The applicants have confirmed that construction works commenced on the site in January 2023. Countryside Partnerships completed and sold their 125 homes in the first 18 months and Persimmon Homes are due to complete their 125 units by March 2025. This equates to a construction period of 26 months for the 250 dwellings in Phase 1.

6.2 They further advise that whilst Phase 1 included major engineering works, such as the whole of the flood relief channel and the southern half of the spine road, the proposed Phase 2 construction works would not include any further major engineering works resulting in less intensive construction activity and a shorter build period. The developers anticipate it would take them no more than 2 years to complete the 248 homes in Phase 2.

6.3 Local residents have objected on the grounds of additional pollution, including noise, disturbance and light pollution, caused by the extended period of construction which would need to be served from the Poverty Lane access rather than from School Lane.

6.4 This would mean construction traffic continuing to access the site through Melling in accordance with the approved Construction Environmental Management Plan (CEMP) for Phase 1.

6.5 Whilst it would be preferable for construction traffic to access via School Lane, it is accepted that this would not be possible until a spine road is built through the northern portion of the wider allocated development site.

6.6 It is also noted that the Environmental Health Manager has not raised any objections to the proposal and that impacts on local residents' living conditions would be temporary in nature and could be controlled and minimised by planning conditions.

7. Phasing including Housing Delivery

Phasing

7.1 The latest phasing plan submitted with the current application shows delivery of the development in 3 phases:

- Phase 1 – 250 homes including 71 affordable units and approximately 4.8 hectares of public open space
- Phase 2 – 248 homes including 92 affordable units and approximately 0.86 hectares of public open space
- Phase 3 – 343 homes including 100 affordable units and approximately 0.48 hectares of public open space

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7.2 The phasing plan demonstrates that delivery of the affordable units and public open space would take place in a proportionate manner and by the end of Phase 2 (occupation of 498 dwellings) the scheme would provide 163 affordable homes (over the 30% policy requirement) and approximately 5.6 hectares of public open space out of a total of 6.1 hectares.

7.3 The proposed phasing would be acceptable and would negate the risk of delaying the provision of a large proportion of affordable homes to the final phase of development.

7.4 Whilst it is acknowledged that approval of the proposal would not provide the bus route through the allocated site, it is also recognised that this cannot take place while the spine road remains incomplete.

7.5 The delivery of the 248 homes in Phase 2 would secure the relevant financial contributions set out in the completed Section 106 legal agreement (see Section 8 below).

Housing Delivery

7.6 Whilst the Council presently has a good supply of housing land (over 8 years' worth in 2023) the loss of 248 homes would equate to the loss of almost half a year's supply of housing on developable land in Sefton. Should delivery of the 248 homes be delayed beyond the next 5 years the Council's supply position would be less robust and this would also impact on housing delivery figures in future years since the application site forms part of the largest housing allocation in Sefton.

7.7 It should also be noted that if the Council fails to demonstrate a sufficient supply or delivery of housing, the housing policies in the Sefton Local Plan would be deemed out-of-date (paragraph 11 National Planning Policy Framework) meaning it would be difficult to resist proposals in unsuitable locations.

8. Planning Obligations

8.1 The original planning permission (DC/2017/01532) is subject to a Section 106 legal agreement committing the developer to a range of measures such as the ongoing maintenance and management of open space and flood relief areas on the site, the provision of affordable housing, and financial contributions towards a wide range of infrastructure projects such as Maghull North train station, the M58 junction 1 improvements, a bus route through the allocated site, the expansion of Summerhill Primary School and a new healthcare facility in Maghull.

8.2 The financial contributions are payable on a phased basis so a greater proportion would be due for payment as more homes are delivered.

8.3 Part 5 of the Section 106 legal agreement provides for these requirements to apply to any subsequent Section 73 applications (such as the current application) granted on the site. There

would therefore be no need to complete a new Section 106 legal agreement for this proposal. The further junction works identified in paragraph 5.5 above could be secured via a deed of variation to the completed Section 106 agreement..

9. Other Matters

9.1 Other matters raised as objections by local residents include the strain on medical services and other infrastructure as well as the loss of green fields and prime agricultural land, the impacts on wildlife and the lack of need for new homes.

9.2 These matters were all taken into account when the initial planning application (DC/2017/01532) was assessed and do not need to be re-evaluated for this current variation of condition application.

10. Equality Act Consideration

10.1 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.

10.2 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.

11. Planning Balance and Conclusion

11.1 Planning law requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

11.2 It is accepted that the proposal does not fully comply with the development plan due to its conflict with Sefton Local Plan policy MN3 part 6c and Maghull Neighbourhood Plan policy MAG 6. This relates to the cap of 250 dwellings to be served from Poverty Lane prior to the completion of the internal bus route / distributor road and the requirement to adhere to the masterplan in terms of phasing and provision of infrastructure.

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11.3 However, the application site already has planning permission to build a total of 841 homes so the principle of the development is established. The delivery of all of the homes, including affordable units, on this part of the allocated site would contribute significantly to the Council's housing supply. This is a material consideration and carries significant weight in the consideration of this application.

11.4 The delivery of the Phase 2 homes (the additional 248 homes) which are the subject of this application) would secure the associated financial contributions towards infrastructure improvements set out in the completed Section 106 legal agreement and this can be given further weight in favour of the application.

11.5 It is accepted that there would be some harm caused to residents' living conditions and to highway safety matters due to the extended construction period accessed from Poverty Lane. However, these could be mitigated by the use of conditions and a deed of variation to the legal agreement to secure highways improvements.

11.6 Taking account of all the considerations discussed in the report above, it is concluded, on balance, that any harm caused to highway safety and living conditions would be outweighed by the need to continue the delivery of the new homes, including affordable units, on this important strategic mixed-use allocation.

11.7 Overall, it is considered that the proposal is acceptable and is recommended for approval subject to conditions. The conditions listed below represent an update on the conditions attached to the hybrid planning permission DC/2017/01532, allowed on appeal, including the varied wording for condition 2.

Recommendation - Approve with conditions subject to the completion of a Section 106 deed of variation to secure highways improvements

Conditions relating to both the full and outline planning permissions

- 1) The development shall be carried out in accordance with the plans and documents listed in schedule 2.
- 2) No more than 498 dwellings shall be occupied until the distributor road between Poverty Lane and School Lane, as shown on drawing A083347-91-18-C001-rev-E (or a subsequently approved version thereof), is constructed and available for use by the public.
- 3) No dwellings shall be occupied within the development such that more than 749 dwellings are occupied within any part of the Land East of Maghull allocation (as identified by Policy MN2 of the Sefton Local Plan) before the local shopping provision required by Policy MN3(6f) of the Sefton Local Plan has been constructed and made available for occupation.

4) No dwellings shall be occupied within the development such that more than 499 dwellings are occupied within any part of the Land East of Maghull allocation (as identified by Policy MN2 of the Sefton Local Plan) before the access and servicing into the business park, and the landscaping framework between the business park and the residential areas have been implemented in accordance with Policy MN3(6d) of the Sefton Local Plan.

5) The remediation strategy approved under application DC/2021/00869 shall be carried out in accordance with the approved timetable of works. Following completion of the remedial works, other than where the remediation works involve the provision of a ground cover system only, a verification report that demonstrates compliance with the agreed remediation objectives and criteria shall be submitted to the local planning authority. None of the dwellings (other than those on areas of the site where the remediation works involve the provision of a ground cover system only) shall be occupied prior to the approval of the verification report by the local planning authority.

6) In the event that previously unidentified contamination is found 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 submitted to and approved in writing by the local planning authority.

Following completion of the remedial works a verification report that demonstrates compliance with the agreed remediation objectives and criteria shall be submitted to the local planning authority. None of the dwellings in the area subject to the remediation scheme shall be occupied prior to the approval of the verification report in writing by the local planning authority.

7) 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:

- i) The enhancement of the Maghull No 13 Footpath to a shared cycleway/footway with lighting.
- ii) The construction of a three-arm roundabout junction on Poverty Lane.
- iii) The construction of a priority junction to from a secondary access on Poverty Lane.
- iv) Traffic calming measures on Poverty Lane in the vicinity of Summerhill Primary School.
- v) The construction of a continuous pedestrian footway along the north-eastern side of Poverty Lane across the frontage of the site.
- vi) The relocation of two existing bus stops on Poverty Lane.
- vii) The introduction of a pedestrian crossing on Poverty Lane in the form of a set of dropped kerbs and tactile paving in the vicinity of the secondary access.
- viii) The widening to 2m of a section of existing footway on the south side of Poverty Lane east of the railway bridge.
- ix) The introduction of a Toucan crossing on Poverty Lane outside Summerhill Primary School.

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- x) The relocation of two street lighting columns on the approach to the railway bridge to ensure that the footway on the southern side of Poverty Lane is well lit.
- xi) Amendments to the A59/Hall Lane signal controlled junction to provide increased capacity for right turning movements from the A59 in a northwards direction.
- xii) Introduction of measures to enable the Hall Lane canal bridge to be one way for vehicular traffic.
- xiii) Introduction of the required measures including signage and lineage to support an amended traffic regulation order to extend the 30mph zone on Poverty Lane to the southeast of the roundabout junction with the distributor road.

The highway works shall be constructed in accordance with the approved scheme and programme.

- 8) Prior to the demolition of the existing buildings at Summerhill Farm, three bat boxes (2f Schwegler or equivalent) plus one winter box (Schwegler 1FS or equivalent) shall be installed on retained and undisturbed trees. The boxes shall be installed at least 3m from the ground, facing north, south-east and south-west respectively and retained thereafter.
- 9) Prior to the demolition of buildings at Summerhill Farm, a search of each building shall be undertaken by a licensed bat ecologist and features such as slipped lifted roof slates and ridge tiles shall be removed. In the event that bats are found during the works, they shall be allowed to disperse naturally or be transferred to a bat box by a licenced bat ecologist.
- 10) During construction, a Schwegler (or equivalent) bat tube shall be placed in a new dwelling in the vicinity of the former Summerhill Farm buildings. The bat tube or replacement thereof shall be retained thereafter.
- 11) All works to existing on-site trees and hedges must be undertaken outside of the bird nesting season of 1 March to 31 August inclusive.
- 12) The information pack approved under application DC/2021/01638 must be provided to future residents on first occupation of each dwelling.
- 13) The annual occupancy survey approved under application DC/2021/01638 shall be carried out within 12 months of its approval and the results provided to the local planning authority for information purposes. Subsequent surveys shall be undertaken for the next four years and the results submitted to the local planning authority prior to the completion of 12 months from the date of the previous submission.
- 14) The potential impacts and any mitigating measures to protect and prevent damage to the water supply infrastructure both during construction and during the operational life of the development shall be implemented in full in accordance with the details approved under applications DC/2021/01365 and DC/2021/01966 and retained thereafter.

15) The development shall be carried out in accordance with the detailed scheme and programme for the method of flood mitigation and disposal of surface water within the whole of the flood relief channel approved under application DC/2021/01405.

16) The tree protection measures outlined in the approved *Arboricultural Impact Assessment (Report No: 7707.001 v3 July 2019)* shall be implemented in full throughout the period of demolition, remediation and construction.

Conditions relating to the full planning permission only

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

18) The development shall be built out in accordance with the phasing details approved under application DC/2021/00869.

19) The Construction Environmental Management Plans approved under applications DC/2021/01365 and DC/2021/02236 shall be implemented throughout the period of demolition, site remediation and construction.

20) The development shall be carried out in accordance with the landscape and ecological management plan approved under application DC/2021/01754.

21) No development shall take place within 200m of Whinney Brook during the months of October to January inclusive, nor shall any occupation of dwellings take place within 200m of Whinney Brook, until the mitigation measures set out in the *Pink-Foot Goose Mitigation Strategy ref 5795.006 v3 of August 2018* have been put in place.

22) Measures to mitigate potential impacts on water voles, as set out in paragraphs 4.15 to 4.23 of the *Water Vole Mitigation Strategy (ref: 5795.005 v6 September 2018)*, shall be implemented in accordance with the details approved under application DC/2021/00869.

23) The reasonable avoidance measures to avoid impacts on roosting bats approved under application DC/2021/00869 shall be implemented in full.

24) The common toad mitigation works shall be carried out in accordance with the strategy and programme approved under application DC/2021/00869.

25) Prior to commencement of development within any phase or sub-phase (except for Phase 1), a red squirrel survey for that phase or sub-phase shall be undertaken, and the results of the survey submitted to the local planning authority. Should red squirrel be recorded within that phase or sub-phase, a mitigation strategy, including a programme for implementation, shall be submitted for the approval in writing by the local planning authority. The mitigation works shall be carried out in accordance with the approved strategy and programme for that phase and for Phase 1 shall be carried out in accordance with the details approved under application DC/2021/00869.

26) Prior to the occupation of dwellings within a particular phase or sub-phase (except for the Countryside Properties phases), details of bird boxes to include their number, type and location as

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well as timing of installation, shall be submitted to and approved in writing by the local planning authority and implemented in accordance with the approved details. The bird boxes within the Countryside Properties phases shall be implemented in accordance with the details approved under application DC/2021/01638.

27) The swallow mitigation method statements shall be implemented in accordance with the details and programme approved under applications DC/2021/01643 and DC/2021/01966.

28) No development shall take place within any phase or sub-phase where invasive plant species have been recorded, until a method statement for control of invasive plants has been submitted to and approved in writing by the local planning authority. The method statement shall include a plan showing the extent of the plants, and the methods of control to be used for remediation. Remediation works shall be carried out in accordance with the approved method statement.

No development shall commence within an area of the site that is subject to remediation until a validation report which demonstrates that the site has been free from invasive plant species for 12 consecutive months has been submitted to and approved in writing by the local planning authority.

29) Foul and surface water shall drain on separate systems and no surface water shall discharge to the public sewer either directly or indirectly.

The development shall be carried out in accordance with the schemes for the disposal of foul and surface water approved under applications DC/2021/00832 and DC/2021/01966.

30) No development shall take place within any phase or sub-phase until full details of the existing and proposed ground levels within and around that phase or sub-phase and on land around that phase or sub-phase, by means of spot heights, cross sections, and finished floor levels, have been submitted to and approved in writing by the local planning authority. The development of that phase or sub-phase shall be carried out in accordance with the approved level details.

31) The development shall be carried out in accordance with the approved infilled pond remediation measures and programme approved under application DC/2021/01638.

32) Archaeological investigation shall be carried out in accordance with the scheme and programme approved under application DC/2021/01405.

33) The development shall be carried out in accordance with the local construction employment schemes approved under applications DC/2021/01365 and DC/2022/00998.

34) Prior to the occupation of any dwellings within a particular phase or sub-phase (except for the Countryside Properties phases), infrastructure for electric vehicle charging points shall be installed in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The electric vehicle charging points within the Countryside Properties phases shall be installed in accordance with the details approved under application DC/2021/00832.

35) The broadband infrastructure serving a dwelling shall be installed prior to occupation of that dwelling and made available for use immediately on occupation of that dwelling in accordance with the details approved under applications DC/2021/00832 and DC/2021/01966.

36) The materials to be used in the construction of the dwellings shall be in accordance with drawing numbers SK438-MAT rev H and PLM.MS.01 revision A.

37) The boundary treatments shall be completed in accordance with drawing numbers SK438-BP-01F, PLM.302.1 rev B and PLM.302.02 rev C before the dwelling to which they relate is occupied.

38) No construction above finished floor level of the dwellings within a particular phase or sub-phase shall take place until details of materials to be used in the construction of all road surfaces, footways and parking areas, including kerbs, within that phase or sub-phase have been submitted to and approved in writing by the local planning authority. The surfaces shall be constructed in accordance with the approved details.

39) No construction above finished floor level of any dwelling within a particular phase or sub-phase (except for the Countryside Properties phases) shall take place until a detailed scheme of street lighting within that phase or sub-phase, alongside a timetable for its implementation, have been submitted to and approved in writing by the local planning authority. The approved scheme shall comply with the requirements of BS5489 and shall be implemented in accordance with the approved timetable. The lighting scheme for the Countryside Properties phases shall be implemented in accordance with the details approved under application DC/2021/00832.

40) No dwelling within a particular phase or sub-phase (except for the Countryside Properties phases) shall be occupied until a detailed scheme of lighting within the proposed public open space within that phase or sub-phase has been submitted to and approved in writing by the local planning authority. The approved scheme shall comply with the requirements of BS5489, accord with paragraph 7.9 of the approved *Bat Mitigation Strategy (Report No: 5795.003 v2 May 2018)*, and shall be implemented in full prior to the public open space within that phase or sub-phase being available for use. The lighting scheme for the Countryside Properties phases shall be implemented in accordance with the details approved under application DC/2021/00832.

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

42) Before any dwelling is occupied within a particular phase or sub-phase, visibility splays of 2.4m by 25m shall be provided clear of obstruction to visibility above a height of 1m above the carriageway level at all junctions that serve that dwelling within that phase or sub-phase. Once created, these visibility splays shall be maintained clear of any obstruction.

43) Before any dwelling is occupied, all of the areas required for vehicle parking, turning and manoeuvring for that dwelling must be laid out, levelled, and drained in accordance with the approved plans and retained thereafter for the passage and parking of vehicles.

44) The landscaping scheme for the flood relief channel, as shown on drawings refs 5529.01 revision H and 5529.02 revision F shall be implemented in full within the first planting/seeding season following completion of the flood relief channel, and any trees or plants which within a

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period of 5 years from the completion of the flood relief channel die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

45) No dwellings within a particular phase or sub-phase (except for the Countryside Properties phases) shall be occupied until landscaping details for that phase or sub-phase have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full in accordance with a timetable to be submitted to and approved in writing by the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development within that phase or sub-phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The landscaping scheme for the Countryside Properties phases shall be implemented in accordance with the details approved under application DC/2021/01638.

46) The glazing and ventilation standards for habitable rooms shall meet the minimum specifications detailed on drawings SK05 and SK06 of the *WYG Noise Assessment Report (A083347 rev 5, dated July 2019)*.

47) No more than 25 residential dwellings within a particular phase or sub-phase (except for the Countryside Properties phases) shall be occupied until a full travel plan (based on the submitted *Framework Travel Plan, report no: A083347 FTP July 2017*) for that phase or sub-phase has been submitted to and approved in writing by the local planning authority. The provisions of the approved travel plan shall be implemented and operated in full and in accordance with the timetable contained therein. The travel plan for the Countryside Properties phases shall be implemented in accordance with the details approved under application DC/2021/01365.

Conditions relating to the outline planning permission only

48) Application for the approval of the details of the appearance, scale, means of access, landscaping and layout (herein called 'the reserved matters') in respect of the older persons housing scheme shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

49) The development shall begin no later than two years from the approval of the final reserved matter and shall be carried out in accordance with the approved details.

50) No development shall commence, including any works of demolition, until a construction environmental management plan (CEMP) for that phase or sub-phase has been submitted to and approved in writing by the local planning authority. The CEMP shall include:

- i) The proposed times construction works shall take place.
- ii) Details of temporary construction access.
- iii) Parking arrangements for vehicles of site operatives and visitors.
- iv) Arrangements for the loading, unloading and storage of plant and materials.
- v) The location of the site compound.

- vi) Wheel washing/road sweeping measures.
- vii) Measures to control the emission of dust and dirt during construction.
- viii) Measures to control the emission of noise during construction.
- ix) Details of external lighting to be used during construction.
- x) The name and contact details of person(s) accountable for air quality and dust issues.
- xi) A programme for issuing information on construction activities to the occupiers of nearby dwellings.
- xii) A construction traffic routing plan which shall exclude the use of residential roads to the west of the site.
- xiii) The times of the movement of heavy goods vehicles to and from the site.
- xiv) A site waste management plan.
- xv) Details of any piling and the days and times when piling activity is proposed.
- xvi) Details of measures to avoid off-site flooding during site remediation and construction.
- xvii) Details of earthworks and landscaping adjacent to the M58 motorway and the means for protection of the boundary fence to the motorway during the construction period.

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

51) No development shall take place until a detailed landscape and ecological management plan, based on the *Land north of Poverty Lane and Land south of School Lane, East Maghull Landscape and Biodiversity Management Plan by The Environment Partnership of July 2017 (ref 6265.04.001 v3)*, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved landscape and ecological management plan.

52) Prior to commencement of development, a red squirrel survey shall be undertaken, and the results of the survey submitted to the local planning authority. Should red squirrel be recorded, a mitigation strategy, including a programme for implementation, shall be submitted for the approval in writing by the local planning authority. The mitigation works shall be carried out in accordance with the approved strategy and programme.

53) No development (including demolition, ground works and site clearance) shall take place until a method statement to mitigate potential impacts on swallow nesting habitat has been submitted to and approved in writing by the local planning authority. The method statement shall include: measures to avoid harm to swallows, the extent and location of proposed swallow nesting provision, and a programme for implementation of replacement swallow nesting provision. The method statement shall be implemented in accordance with the approved details and programme.

54) No development shall take place (other than demolition, site clearance or remediation) until detailed schemes (including ground and finished floor levels above ordnance datum) for the

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disposal of foul and surface water have been submitted to and approved in writing by the local planning authority.

The schemes shall be in accordance with the *Proposed Residential Development Land north of Poverty Lane, Maghull Flood Risk and Drainage Assessment by WYG Engineering Ltd of October 2017 (ref A083347 rev A), Addendum No 1 of October 2018 (ref A083347), Addendum No 2 of June 2019 (ref A083347)*, the updated foul and surface water drainage strategy required by condition No 15, and the non-statutory technical standards for sustainable drainage systems (or any subsequent replacement).

Foul and surface water shall drain on separate systems and no surface water shall discharge to the public sewer either directly or indirectly.

The schemes shall include a construction phase drainage management plan to show how surface water and pollution prevention will be managed during the construction period.

The development shall be carried out in accordance with the approved schemes for the disposal of foul and surface water.

55) No dwelling shall be occupied until a validation report demonstrating that the necessary connections for the drainage scheme have been carried out in accordance with the details approved under condition No 57 has been submitted to and approved in writing by the local planning authority.

56) No development shall take place within any phase or sub-phase until a written scheme of investigation for archaeological work, including a programme for implementation, has been submitted to and approved in writing by the local planning authority. Archaeological investigation shall be carried out in accordance with the approved scheme and programme.

57) No development shall take place within any phase or sub-phase until details of a local construction employment scheme have been submitted to and approved in writing by the local planning authority. The scheme shall explain how reasonable endeavours shall be made to use local suppliers, contractors and labour during the construction phase of the development. The development shall be carried out in accordance with the approved scheme.

58) Prior to the occupation of any dwellings, infrastructure for electric vehicle charging points shall be installed in accordance with a scheme which has been submitted to and approved in writing by the local planning authority.

59) Details of full fibre broadband connections to all proposed dwellings within a particular phase or sub-phase shall be submitted to and approved in writing by the local planning authority. The infrastructure serving a dwelling shall be installed prior to occupation of that dwelling and made available for use immediately on occupation of that dwelling in accordance with the approved details.

60) No development shall take place until full details of the existing and proposed ground levels and on adjacent land, by means of spot heights, cross sections, and finished floor levels, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved level details.

61) No erection of external lighting shall take place until a detailed design of the lighting unit, supporting structure and the extent of the area to be illuminated, has been submitted to and approved in writing by the local planning authority. The external lighting shall be installed in accordance with the approved details.

62) None of the dwellings shall be occupied until a scheme for protecting their occupants from the potential adverse effects of traffic noise has been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the submitted noise assessment (*ref: A083347 rev 5 July 2019*) and include details of noise barriers, building insulation, window glazing and alternative ventilation strategy for the proposed dwellings. Works which form part of the scheme approved by the local planning authority shall be completed for each dwelling prior to occupation of that dwelling.

63) Prior to the occupation of 10 dwellings, a full travel plan (based on the submitted *Framework Travel Plan, ref: A083347 FTP July 2017*) shall be submitted to and approved in writing by the local planning authority. The provisions of the travel plan shall then be implemented and operated in full and in accordance with the timetable contained therein.

64) No dwelling shall be occupied until cycle parking facilities have been provided in accordance with a scheme which has been submitted to, and approved in writing by, the local planning authority. The cycle parking infrastructure shall be installed in accordance with the approved details prior to occupation and shall be retained thereafter.

Schedule 2 – plans and documents referred to in condition No 1

Plans

Drawing No. 2016.006.025 Site Location Plan

Drawing No. 2016.006.026 Buildings to be Demolished

Drawing No. 2016.006.027 Indicative Phasing Plan

Drawing No. A083347-91-18-C001-E Potential Spine Road Alignment between School Lane and Poverty Lane

Drawing No. A083347-91-18-C007-A Proposed Southern Access Roundabout onto Poverty Lane / Leatherbarrows Lane

Drawing No. A083347-91-18-C008 Proposed Secondary Access onto Poverty Lane (Priority Junction)

Drawing No. SK438-BP-01F Boundary Plan

Drawing No. NSD 9001 Wall Types 1 to 4

Drawing No. NSD 9102 Fence Types A to D

Drawing No. NSD 9202 Hooped Top Metal Railings

Drawing No. PLM.302.01 rev B Boundary Treatment – Phase 1

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Drawing No. PLM.302.02 rev C Boundary Treatment – Phase 3
Drawing No. ACO.FEN08.01 1.8m High Timber Acoustic Fence
Drawing No. SDF05 rev A 1800mm High Screen Fence
Drawing No. SDW08/04 1.8m High Brick Screen Wall Detail (Artstone Piers)
Drawing No. SDW09 2.1m High Brick Screen Wall Detail (Artstone Piers)
Drawing No. SDF12 600mm High Timber Knee Rail
Drawing No. ASHP(14) The Ashop – Floor Plans and Elevations
Drawing No. BBDGE(14) The Baybridge – Floor Plans and Elevations
Drawing No. DEE-01 The Dee – Floor Plans
Drawing No. DEE-6.0-SEMI(A) The Dee – Elevations: 6.0 Brick (Semi) Alt
Drawing No. DEE-02 The Dee SA - Floor Plans
Drawing No. DDSA-6.0-SEMI(A) The Dee / Dee SA - Elevations: 6.0 Brick (Semi) Alt
Drawing No. DUN-B(14) The Dunham – Floor Plans and Elevations
Drawing No. ELLES(14)-01 The Ellesmere – Floor Plans and Elevations
Drawing No. ELLE-01 The Ellesmere (Sigma) – Floor Plans
Drawing No. ELLE-6.0-SEMI(A) The Ellesmere (Sigma) – Elevations: 6.0 - Brick (Semi) Alt
Drawing No. ESK-01 The Esk – Floor Plans and Elevations
Drawing No. GRWE-01 The Grantham / Weaver - Ground Floor Plans
Drawing No. GRWE-02 The Grantham / Weaver – First Floor Plans
Drawing No. GRWE-6.1-SEMI The Grantham / Weaver – Elevations: 6.1 Brick / Render (Semi)
Drawing No. IRWL-01 The Irwell – Floor Plans
Drawing No. IRWL-6.0(SEMI) The Irwell – Elevations: 6.0 Brick (Semi)
Drawing No. LONG(14) The Longford – Floor Plans and Elevations
Drawing No. LYMI(14) The Lymington – Floor Plans and Elevations
Drawing No. NEWASH-01 The New Ashbourne – Floor Plans and Elevations
Drawing No. NSTAM(14) The New Stamford – Floor Plans and Elevations
Drawing No. NWALT-01 The New Walton – Floor Plans and Elevations
Drawing No. OAK-01 The Oakham Floor Plans and Elevations
Drawing No. STRA-01 The Stratford FCT – Floor Plans and Elevations
Drawing No. WEAV(UP)-01 The Weaver Underpass – Floor Plans
Drawing No. WEAV(UP)-6.0-3Blk) The Weaver Underpass – Elevations: 6.0 Brick (3 Block) Drawing
No. WEAV(UP)-6.0-4Blk) The Weaver Underpass – Elevations: 6.0 Brick (4 Block)
Drawing No. TGDP/PLMM/ALN Alnwick House Type
Drawing No. TGDP/PLMM/CHE Chedworth House Type
Drawing No. TGDP/PLMM/CLA+ Clandon Plus House Type
Drawing No. TGDP/PLMM/CLA CORNER Clayton Corner House Type
Drawing No. TGDP/PLMM/HAN Hanbury House Type
Drawing No. TGDP/PLMM/HAT Hatfield House Type
Drawing No. TGDP/PLMM/KEN Kendal House Type
Drawing No. TGDP/PLMM/MOS Moseley House Type
Drawing No. TGDP/PLMM/ROS Roseberry House Type
Drawing No. TGDP/PLMM/RUF Rufford House Type
Drawing No. TGDP/PLMM/SOU Souter House Type
Drawing No. TGDP/PLMM/TIV Tiverton House Type

Drawing No. TGDP/PLMM/WIN Winstar House Type
Drawing No. LPH.SGD.WD01B Single and Double Garage
Drawing No. D6265.07.001D Landscape Masterplan
Drawing No. D6265.07.002B Landscape Masterplan – Whinny Park
Drawing No. 5529.01H Landscape Structure Plan Phase 1
Drawing No. 5529.02F Landscape Structure Plan Phase 3
Drawing No. SK438-MAT rev H Materials Schedule
Drawing No. PLM-MS-01 rev A Materials Schedule
Drawing No. SK438-DL-01 rev X1 Site Layout
Drawing No. TGDP/PLMM/PL-P1 rev M Planning Layout Phase 1
Drawing No. TGDP/PLMM/PL-P3 rev L Planning Layout Phase 3
Drawing No. SK438-CSP-01 rev N Composite Site Plan
Drawing No. SK029 rev P2 Flood Relief Channel General Arrangements Plan (Site A only)

Documents

Report No. A083347 FTP Framework Travel Plan July 2017
Report No. 7707.001 v3 Arboricultural Impact Assessment July 2019
Report No. 3670810002 Phase 1 Geo-environmental Assessment February 2017
Report No. A083347 rev A Flood Risk and Drainage Assessment (Site A) October 2017
Report No. A083347 Flood Risk and Drainage Assessment Addendum No 1 October 2018
Report No. A083347 Flood Risk and Drainage Assessment Addendum No 2 May 2019
Report No. 5795.003 v2 Bat Mitigation Strategy May 2018
Report No. 5795.013 v4 Bat Roost Assessment November 2020
Report No. 5795.006 v6 Pink-footed Goose Mitigation Strategy August 2018
Report No. 5795.005 v6 Water Vole Mitigation Strategy September 2018
Report No. A083347 rev 5 Noise Assessment July 2019
Report No. 6265.04.001 v3 Landscape and Biodiversity Management Plan July 2017

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Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 24 July 2024

Subject: **DC/2023/02111**
Land To The North East Of Poverty Lane North West Off Harrier Close, Poverty Lane, Maghull

Proposal: Erection of a residential care home (C2) with associated parking, infrastructure and landscaping.

Applicant: Mr Richard Hoggart **Agent:** Mr. Luke Hunter
North Bay (Liberty) Ltd Jackson Design Associates Limited

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

Reason for Committee Determination: Called in by Councillors' Phil Hart and Judy Hardman

Summary

This application seeks full planning permission to construct a 76-bed residential care home within the strategic site allocated for residential and business development, known as Land East of Maghull. The principle of a care home has previously been established under a decision granted on appeal in February 2021.

The main issues to consider include the principle of the development, design, effects on living conditions (of both existing and future residents) and highway safety as well as ecology, energy efficiency, land contamination, air quality, flooding and drainage and other matters.

The proposal complies with adopted local plan policy and, in the absence of any other material considerations, the application is recommended for approval subject to conditions and the completion of a Section 106 legal agreement to ensure that the impact of the proposal on the recreational pressures of recognised sites of ecological importance has been appropriately addressed, and the provision of a travel plan.

Recommendation: Approve with Conditions subject to the completion of a Section 106 Legal Agreement.

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Case Officer Catherine Lewis

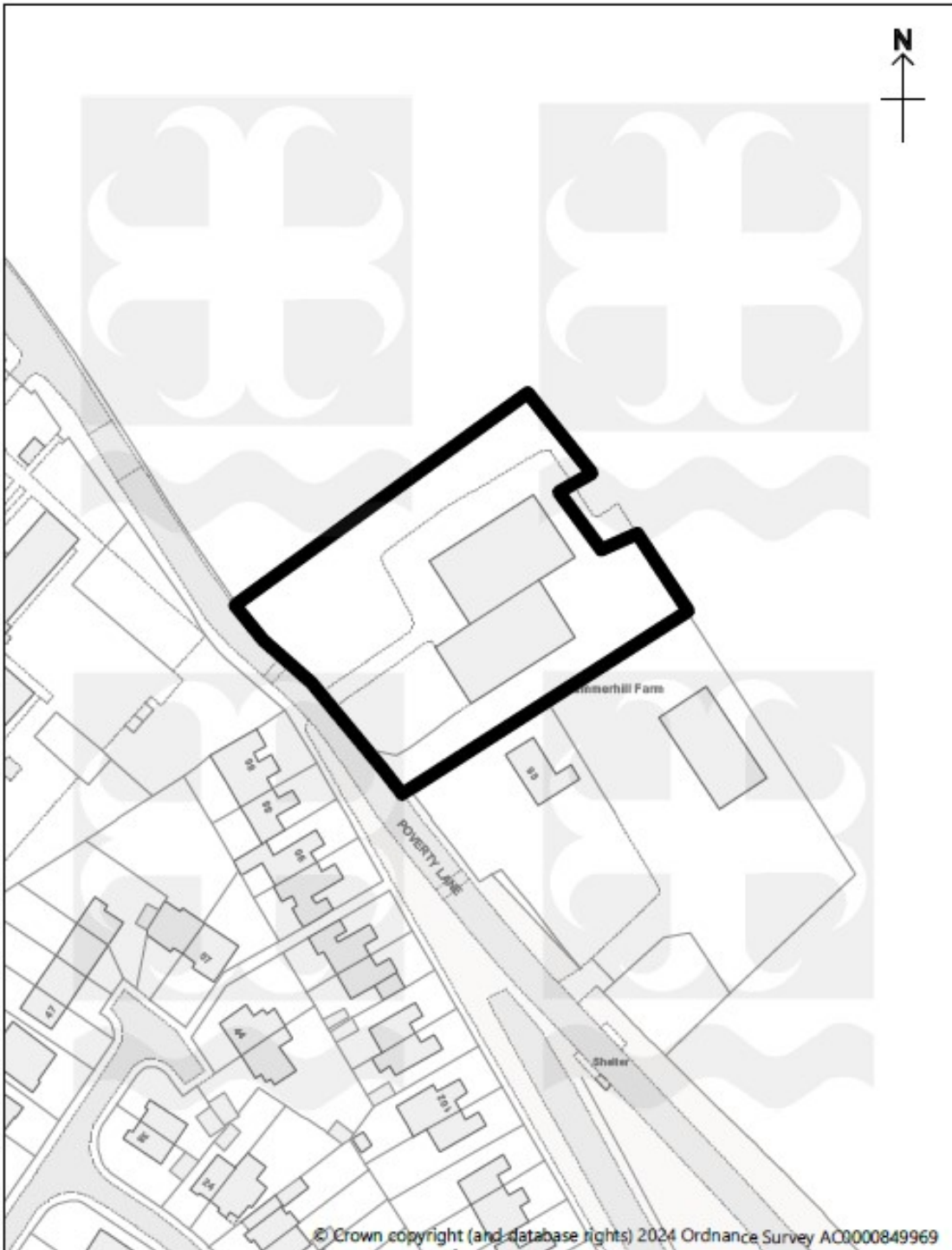
Email planning.department@sefton.gov.uk

Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S57KILNWIWH00>

Site Location Plan



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The Site

Located to the south east of Maghull, the site previously consisted of part of Summerhill Farm but is now vacant. Measuring approximately 0.53 hectares it comprises a parcel of land within the Land East of Maghull development, on the eastern side of Poverty Lane. The site is bounded by residential development currently being constructed to the north, south, and east. Vehicular access to the site would be taken from within the housing development and Poverty Lane would form the western boundary with Summerhill Primary school beyond.

History

The site currently forms part of a wider planning application granted planning permission at appeal in February 2021 (planning application reference: DC/2017/01532) for the development of 841 residential dwellings and an older person's housing scheme (application site). The appeal decision letter is ref: APP/M4320/W/20/325752.

The description of the development is: DC/2017/01532 Hybrid application seeking full planning permission for the demolition of existing buildings and the erection of 841 residential dwellings (C3), new vehicular accesses off Poverty Lane, public open space and ancillary infrastructure and outline planning permission for an older persons housing scheme (C2, C3) and ancillary infrastructure with all matters reserved.

Consultations

The following consultee comments have been received:

Highways Manager

No objection subject to conditions

Environmental Health Manager

Air Quality

No objection subject to a condition to control dust during construction.

Contaminated Land

No objection subject to conditions.

Environmental Health

No objections subject to conditions to provide a Construction and Environmental Management Plan, acoustic glazing and ventilation and an acoustic barrier to the car park required.

Environment Agency

No objection subject to conditions to control ground contamination.

Flooding and Drainage Manager

No objection subject to conditions.

Local Plans Manager

No objections subject to the occupancy being restricted to those to 55 or over.

Merseyside Environmental Advisory Service

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

Tree Officer

No objections

Housing

The proposal does not align with the strategic plans for older persons housing.

Neighbour Representations

A site notice and advert in the Metro newspaper have been posted together with notification of adjacent neighbouring properties. Following the submission of revised plans site notices were posted, further re-consultation and re-notification has been undertaken which expired on 13 July 2024.

One letter of objection has been received which raises the summarised points:

- Initial plans to develop aged over 55 years residential properties implied independent living. Such properties with appropriate parking would be consistent with existing Poverty Lane properties and the new house developments.
- The care home proposal should be rejected in favour of independent living properties with Poverty Lane vehicle access - which with lower traffic volumes and allocated residential parking could be accommodated.
- Concern about the access from Falcon Avenue which is narrow and should be from Poverty Lane.

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- A 76 room care home commercial business is very significantly different and would create high volumes of traffic and parking within a newly created residential area. Any street or pavement parking would be highly intrusive and restricts access to existing residential properties.

The application has been called in by Cllrs Hardman and Hart.

Councillor Hardman

Raises concerns that the care home is not a housing scheme of up to 25 dwellings for elderly people but is a residential care home. Requires the view of the Adult and Social Care team about the type of accommodation most needed for older people in Sefton and that the planning committee consider the application in the light of the advice needed.

Councillor Hart

The proposal would be harmful to residential amenity, highway safety, would have a poor design, and impact upon the quality-of-life of future occupants.

Policy Context

The application site is allocated as a strategic mixed-use allocation under policy MN3 Land East of Maghull in the Sefton Local Plan which was adopted by the Council in April 2017.

Policy MN2 of the Sefton Local Plan identifies housing allocations with the application site forming part of site MN2.47 land east of Maghull. Housing policies HC1, HC2 and HC3 are concerned respectively to secure affordable housing, a mix of dwellings, and (as a general rule) a minimum density of 30 dwellings per hectare (dph).

The Maghull Neighbourhood Plan was 'made' (i.e. adopted) on 24th January 2019 and carries full weight in decision making. Policy MAG 6 sets out the requirements for the Masterplan which has been prepared and adopted.

Land East of Maghull (LEM) Supplementary Planning Document (SPD) was adopted in 2017.

Assessment of the Proposal

1.1 This application seeks planning permission to construct a two-storey care home of 72 bedrooms. The proposal includes communal facilities such as a reception and café area to the ground floor including a dining area, activity room, hair salon and quiet lounge. The first floor provides accommodation, an activity/cinema room, laundry and staffrooms room, games room and dining area. The roof plan includes the provision of solar panels.

1.2 Vehicle access would be taken from within the currently constructed housing estate and a pedestrian access would be provided to link directly to Poverty Lane. Typically staffing levels would be approximately 18 during the day and 11 at night.

1.3 The main planning issues for consideration include the principle of the development, visual impacts, effects on living conditions and highway safety as well as ecology, energy efficiency, land contamination, air quality, flooding and drainage and other matters.

Principle

2.1 The application site is part of a wider allocation for a strategic mixed-use site under Policy MN3 'Land East of Maghull'. Policy MN3 Part 1 requires the development of this site to create a comprehensive, high quality, well designed, sustainable urban extension. Part 2 encourages the production of a single detailed masterplan, Part 4 that a Supplementary Planning Document relating to the site is adopted. Part 5a that the development of the site must provide for at least 2 dedicated older person housing schemes (reserved for residents of 55 and over) each comprising at least 25 dwellings.

Appeal Decision Letter

2.2 The site has been the subject of an allowed appeal which confirmed the use of the application site for an older person's housing scheme, granting it outline consent. The appeal decision letter ref: APP/M4320/W/20/325752 at the first paragraph states:

1. The appeal is allowed: full planning permission is granted for the demolition of existing buildings and the erection of 841 residential dwellings (C3), new vehicular accesses off Poverty Lane, public open space and ancillary infrastructure; and outline planning permission is granted for an older persons housing scheme (C2, C3) and ancillary infrastructure with all matters reserved; in both cases on land north-east of Poverty Lane, Maghull, in accordance with the terms of the application, Ref DC/2017/01532, dated 23 August 2017, subject to the conditions in schedule 1.

2.3 The Use Class C2 (residential institutions) relates to residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres and Use Class C3 relates to houses, flats, apartments. This proposal is for a communal accommodation type of care home with 72 bedrooms, rather than individual units. This use is in line with the permission granted in the allowed appeal which referred to C2 and C3 and the Local Plans Manager has advised that the proposal is acceptable in principle subject to occupancy being restricted to those aged to 55 or over. The residential care home does not conflict with Policy MN3 of the Sefton Local Plan or the aims of Policy LM6 of the Land East of Maghull SPD.

2.4 One of the main objectives of the Maghull Neighbourhood Plan is to support housing development which meets identified needs where such housing is appropriate to its environment

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with good design features and usable public green space for the benefit of all residents. The Land East of Maghull Supplementary Planning Document dated 2017 advises that the site would provide a range of house types and tenures to cater for all household types including retirement/older people's accommodation. Policy MAG 6 sets out the requirements for the Masterplan which has been prepared and adopted.

2.5 There is a strong housing strategy push for extra care accommodation and the Council's housing team are therefore not supportive of this proposal as the type of accommodation would not align with their strategic plans for older persons' housing.

2.6 The Adult and Social Care Team have advised that the ambition is to help people to remain in their homes rather than provide more residential care homes. The applicant has been in contact with Adult and Social Care to explain how the unit would run. Notwithstanding these discussions the appeal decision notice provides for the provision of accommodation for the over 55's to include the C2 use which is a care home. Therefore, the principle of the development is considered acceptable.

Conclusion on Principle

2.7 The application site forms part of a wider strategic mixed-use allocation under Policy MN3. The appeal decision letter provides outline approval of a C2 and or a C3 use.

2.8 The proposed development is acceptable in principle subject to a condition to restrict occupancy to those aged to 55 or over.

Design, Visual Impact

3.0 The application site is surrounded on three boundaries by residential properties with access taken from within the residential estate. One of the challenges of the design is to provide interest to Poverty Lane and an acceptable design to the main entrance off Harrier Close, whilst minimising the impact upon the living conditions of the residential properties.

3.1 The proposal comprises an 'H' shaped building measuring 52 metres in length by 60 metres in width with a maximum height of 11.6 metres to the ridge and 5.8 metres to the eaves. Whilst predominantly constructed in multi red facing brick with a grey tiled roof there are elements of off-white render to add interest. Further architectural details include a stone plinth, stone headers to the windows, a stone string course to the elevations and recessed brick work. A glazed recessed balcony with a balustrade is proposed to the main elevations. A condition to seek further detail of the materials could be imposed.

3.2 The main elevation is in effect the rear elevation of the building which fronts Poverty Lane. It would have an attractive appearance that, due to the height, use of similar materials and design

would sit comfortably with the street scene of mostly residential properties, but which would provide a strong presence along Poverty Lane.

3.3 Following the initial submission, revised plans were submitted to address concerns raised by the Highways Manager. The footprint of the has been relocated 800mm to the south-west in order to achieve parking spaces and 2m wide footpaths typically to public areas. Within the landscaped garden areas footpaths are a minimum of 1.5m wide with passing places (increased width to 1.8m) at suitable locations for the occasions where two wheelchairs would pass. These narrower widths are considered appropriate within a private site and where maximising biodiversity is an important objective.

3.4 Alterations to the front elevation (Harrier Close) have been made to enable a 2m wide footpath within the site. The design of the roof line has changed from gable to hipped roofs to reduce the impact of the building mass on neighbouring properties, the two-storey elevation with a hipped roof sloping away from residential neighbour's results in an acceptable relationship. The external bin store has been enclosed to provide for an 'internal' single storey extension to the north-west elevation. The windows to corridor ends facing existing / proposed residential dwellings have been changed to obscure glass up to 1.7m from finished floor level.

3.5 The boundary treatment includes 2.2-metre-high black vertical metal railings to Poverty Lane with tree hedge and shrub planting. An internal path would run around the building. The southern and northern boundary treatment would consist of a 1.8-metre-high close boarded timber fence. Details include proposed native hedge and tree planting to the boundaries of the internal garden space. The design of the fencing provides for small mammals to enter and exit. To the front of the site there would be some grassed areas with limited planting due to the car parking requirements.

3.6 The design of the care home is considered acceptable and would meet the aims of Part 1 a of Policy EQ2 Design of the Local Plan and also Policy MAG4 of the Maghull Neighbourhood Plan.

Living Conditions

Surrounding residential dwellings.

4.1 There are some residential properties constructed and occupied on Harrier Close whose rear gardens would back on to the site. Other properties are currently under construction, and some have not yet started on the northern boundary. The guidance within the "New Housing" Supplementary Planning Document (SPD) 12 metres encourages a minimum of 12 metres between a blank wall and a habitable room window. The building has been designed as a 'H' shape to limit impacts in terms of loss of light and overlooking.

4.2 There would be approximately 18.4 metres between the southeastern elevation of the proposed building to the residential properties on Harrier Close. The only windows on this elevation within 21 metres of the residential properties would be to communal corridors. Similarly, there would be 12.8 metres between the northwestern elevation of the proposed building and the

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approved properties to be constructed. A condition could be imposed so that these windows in the flank elevations would be obscurely glazed to avoid overlooking of the neighbouring gardens. The windows all serve communal corridors where obscure glazing is appropriate and would not harm residents' outlook from within the building.

4.3 In terms of the distances from habitable rooms in the care home to the residential dwellings these would be more than 32 metres. These distances all exceed the minimum separation distances set out in Council's guidance.

4.4 The Environmental Health Manager recommends that an acoustic barrier is provided for any boundary with residential dwellings abutting the car park areas and a condition could be imposed to secure the provision of an acoustic barrier along relevant boundaries of the site.

Occupiers of the site

4.5 All habitable rooms would have a window with a reasonable outlook and prospect. In terms of outdoor communal amenity space there would be two large secure outdoor courtyard spaces over 500sqm each which provide a useable space for residents. As the guidance recommends 10m² per resident, this would exceed the minimum standards and provide an attractive outlook. There would be further landscaped spaces and a pathway around the building.

4.6 The application is accompanied by a Noise Impact Assessment dated 23rd October 2023. The report advises that mitigation measures in terms of acoustic glazing and acoustic ventilation would be required, and the Environmental Health Manager has confirmed that these aspects could be controlled by conditions. The site includes an on-site substation, at this stage the final design of the substation would be dependent upon the requirements of the utility providers and conditions to control these details could be added.

4.7 The proposal is considered acceptable in terms of living conditions for both the existing and future occupiers and complies with Policy EQ2 'Design' of the Local Plan.

Highway Safety

5.1 The main access to the site would be from the internal housing development and the estate roads are currently under construction. The application has been reviewed by the Council's Highways Manager and following concerns about the internal layout including the car park requirements, tracking drawings for larger vehicles and the need to provide pedestrian access to Poverty Lane revised plans have been received.

Traffic Impact

5.2 The appeal decision letter considered the impact of two access points from Poverty Lane for the wider development and concluded that subject to conditions to ensure the provision of the permanent highway works proposed on Poverty Lane and elsewhere on the local network, the

proposed development would not adversely affect highway safety or traffic movement (paragraph 21 and 37 of the decision letter). The vehicle movements associated with a development of 25 dwellings for the over 55's has previously been found acceptable and in consideration of the care home with the requirement of 34 car park spaces, it is considered that there would be no significant adverse impact on highway safety or traffic movement. The traffic impact for the full East Maghull development was assessed as part of the application reference DC/2017/01532 and the planning approval granted on appeal. The Highways Manager has advised that re-consideration of the traffic movements would not be required.

Access

5.3 Pedestrian and cycle access to the development for visitors, and vehicular access for everyone, would be via the residential development (Persimmon element) with a 5.5m wide service road, with 2m wide footways either side, to the care home. The service road to the site car park would be private as it is not standard practice to adopt commercial site access roads nor is it in the public interest to do so.

5.4 The Highways Manager has advised that the site would not provide direct access to Poverty Lane and the associated bus stops or cycle options for visitors which is not ideal as it is a longer route and would discourage sustainable travel. Although this aspect has been considered by the applicant due to site security reasons and potential vulnerable residents' full access is not encouraged. The applicant has, however, provided a pedestrian staff access from Poverty Lane with keypad or fob access for security. Given the nature of the use this is considered acceptable subject to a condition to require staff access for the lifetime of the development.

5.5 Additional tracking drawings have been provided which demonstrate large refuse vehicles can access the site safely.

Parking

5.6 The applicant has stated that there would be up to 18 staff on site at any given time and no resident staff. The Council's parking standards in the 'Sustainable Travel and Development' Supplementary Planning Document for a 76 bed care home are as follows:

- 1 car space per 2 non-resident staff (9 spaces based on 18 non-resident staff)
- 1 car space per 3 beds for visitors/care workers (25 spaces)
- Disabled parking - 5% of total car park capacity + 5% of total car park capacity as enlarged spaces of 3.6m x 6m (2 disabled spaces + 2 enlarged spaces based on a total of 34 spaces)
- 2 cycle spaces
- 2 motorcycle spaces
- Space for an ambulance, minibus or van

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5.7 The Proposed Site Plan drawing no. 22-2426-(02)101 revision P07 shows there would be a total of 34 car parking spaces and an ambulance space which complies with the parking standards. Cycle and motorcycle parking locations are shown on the proposed site plan, but a planning condition is needed to agree the scheme details including securing mechanisms. Three of the standard car parking spaces would be available for electric vehicle charging.

5.8 Although neighbours have raised concerns about the access to and from the site and the level of parking associated with the use, the Highways Manager has confirmed that these aspects are acceptable.

Construction Traffic Management Plan (CTMP)

5.9 A Construction Traffic Management Plan would be needed which could be secured via a planning condition. It would need to be co-ordinated with the other elements of the wider development.

Travel Plan (TP)

5.10 The TP submitted for the development is generally acceptable but although staff travel is considered, it does not make reference to how visitors would travel to the site and does not include any measures to encourage sustainable travel to the site by visitors. These details could be covered by the Section 106 legal agreement.

Other Highway Matters.

5.11 The applicant has confirmed that the café and hairdressers would be solely for use by residents and this aspect can be controlled by condition. Concern has been raised about the types of trees proposed and their roots impacting within the highway. These details can be controlled by a landscape condition.

5.12 To conclude the highway section, further revised plans have been received which demonstrate access in to and out of the site for large refuse vehicles. Although there is no direct unrestricted access from Poverty Lane due to the nature of the use, the pedestrian access for staff is considered acceptable. The development would ensure that there is acceptable car parking provision within the site, whilst the layout would ensure that pedestrians and cyclists would be capable of accessing both this site and the wider housing development safely. The proposal therefore meets the aims of Policy EQ3 'Accessibility' of the Sefton Local Plan.

Ecology, Trees and Landscaping

Biodiversity Net Gain

6.1 The application was submitted and registered before the legislation required the mandatory 10% increase of biodiversity as part of new development.

Ecology

6.2 As recognised in the determination of the wider residential development, the development site is close to several national and international sites and Policy NH2 of the Local Plan applies. The residential development would result in increased visits (recreational pressure) to recognised sites of ecological importance and the application details have been the subject of a Habitats Regulations Assessment.

6.3 The Appropriate Assessment concluded that there would be no significant effects on the recognised sites subject to mitigation measures including the provision of an advisory leaflet within the sale pack of each resident. The provision of a household leaflet could be conditioned, and the proposal would comply with Policy NH2 'Nature' of the Local Plan.

6.4 The applicant has submitted an Ecological Addendum report dated November 2023, a Landscape Masterplan and a Landscape Ecological Management Plan. The information advises that the site does not provide suitable habitat for amphibians, but the Council's ecologist has advised that a condition to protect amphibians and mammals during construction is required.

6.5 A number of biodiversity enhancements including bird and bat boxes, and connections through site for amphibians and hedgehog is recommended within the Ecological report. A condition to control this aspect could be imposed together with a condition to control lighting to the site and the proposals would meet the aims of Policy NH2 of the Sefton Local Plan.

Trees

6.6 The applicant has submitted a detailed planting plan which includes planting with native hedgerows, tree planting and wildflower meadows, which would benefit biodiversity within the site and would help soften the appearance of the development in the wider street scene. The tree officer has advised there are no trees currently on the site, therefore no survey is required. The landscape details provide for 28 standard trees and 6 multi stemmed trees. As stated earlier in the report the proposed tree types would need to be revised and a landscape condition could be imposed to control these aspects. The proposal would meet the aims of Policy EQ9 'Provision of Trees' in the Sefton Local Plan.

Energy Efficiency and Sustainability

6.7 The design and access statement indicates that the proposal would include the following measures to mitigate climate change:

- allow for solar benefit through south and west glazing.
- the use of photo voltaics for solar electricity provision which will be set into the roof.
- inclusion of Electric Vehicle charging points and that the development would be designed to achieve a high energy performance rating.

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These measures are sufficient to demonstrate compliance with Policy EQ7 'Energy Efficiency and Low Carbon Design'.

Land Contamination

6.8 The application is accompanied by a 'Phase 2 Ground Investigation Report' prepared by Ground Investigation Associates Limited and dated 1 December 2023 (Ref: 23110-1). The Environment Agency has advised that the site investigation revealed no contaminants that would impact either the Shirdley Hill Sands, the Sherwood Sandstone formation, or the Whinney Brook located north of the proposed development. Subject to a condition to address any contamination not previously identified, the proposal would meet the aims of Policy EQ6 'Land Contamination' of the Sefton Local Plan and paragraph 180 of the NPPF.

6.9 The land contamination officer has assessed the submitted information and has advised that a site investigation and risk assessment has been undertaken by Ground Investigation Associates and includes recommendations for remediation which will need to be detailed in a remediation strategy. It is not clear if the application area has continued in use as a site compound following completion of the site investigation, or if the site is still accessible for the deposit of materials that may include waste. Subject to the imposition of standard land contamination conditions the proposal would meet the aims of Policy EQ6 'Land Contamination' of the Sefton Local Plan.

Air Quality

7.1 Construction activities of this scale close of residential dwellings have the potential to cause temporary air quality impacts. A condition to address and control dust and particulates from construction activities would be required which would form part of a Construction Management Plan and would meet the aims of Policy EQ5 'Air Quality'.

Flooding and Drainage

8.2 The application is accompanied by a SuDS proforma and a Drainage Strategy dated November 2023. The foul drainage would connect to the existing infrastructure on Poverty Lane (subject to agreement with United Utilities). A drainage strategy has been implemented for the wider housing development site based on a connection to Whinney Brook which is to be re-modelled and a flow control structure provided to its outfall. The application details propose to discharge surface water to the existing spur connection that has been provided within the development site. The Flood Risk Manager has confirmed the submitted information is acceptable subject to conditions to control the Sustainable surface water scheme in accordance with the Drainage Layout Drawing Number 6392-DR-R01-Rev P4, dated 12 Dec 2023 and the principles outlined in the SuDS Pro-Forma, the Flood Risk Assessment and Drainage Strategy Reports and details of how any un-adopted SuDS systems would be managed and maintained for the lifetime of the development.

It is considered that the proposed development would be acceptable in this regard and complies with Policy EQ8 'Flood Risk and Surface Water' of the Local Plan.

Other Matters

Affordable Housing.

9.1 New developments that create 15 or more residential units should provide affordable housing.

In

Maghull the requirement is for 30% of the scheme to be affordable housing. However, as the proposal does not relate to residential units this requirement does not apply.

Conclusion

10.1 The application relates to a full planning application for a 76 bed, two storey, care home on a strategic site, rather than the reserved matters element following the appeal decision. The principle of a care home for over 55's on the application site has previously been established by the appeal decision. A condition to control the age restriction is recommended.

10.2 Subject to conditions, the development would not give rise to concerns relating to highways flooding/drainage, land contamination, living conditions (of both existing and future residents) ecology, design, trees and landscaping.

10.3 A section 106 legal agreement would be required to ensure that the impact of the proposal on the recreational pressures of recognised sites of ecological importance has been appropriately addressed and also to provide for a travel plan. The application meets the aims of the policies in the Sefton Local Plan, Maghull Neighbourhood Plan and the guidance set out in Land East of Maghull Supplementary Planning Document. The National Planning Policy Framework advises that there is a presumption in favour of sustainable development. There are no other material considerations to outweigh the granting of planning permission therefore the proposal is recommended for approval subject to conditions and the signing of the section 106 legal agreement.

Equality Act Consideration

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

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- Advance equality of opportunity between people who share a relevant protected characteristic (age, disability, race, gender reassignment, marriage and civil partnership,

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

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

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

Recommendation - Approve with Conditions subject to the completion of a Section 106 legal agreement.

Time Limit for Commencement

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

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

Approved Plans

2) The development hereby granted shall be carried out strictly in accordance with the following details and plans: -

Drawing No. 22-2426 (02) 001 P03
Drawing No. 22-2426 (02) 002 P03
Drawing No. 22-2426 (02) 003 P03
Drawing No. 22-2426 (02) 005 P03
Drawing No. 22-2426 (02) 006 P03
Drawing No. 22-2426 (02) 101 P07
Drawing No. 1641 001E Landscape Masterplan
Drawing No. 22-2426-(02)201 P01

Reason: To ensure a satisfactory development.

Before the Development is Commenced

3 No development shall take place until a site-specific Construction Environmental Management Plan (CEMP) has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust, water pollution, ecology and site lighting. The

plan should provide for:

- Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- Proposed Construction hours
- Measures to control the migration of mud from the site by vehicles during construction
- Mitigation measures to minimise noise disturbance from construction works.
- Procedures for emergency deviation of the agreed working hours.
- Control measures for dust and other air-borne pollutants, including a dust management plan in order to minimise the impacts of construction dust.
- Measures to prevent pollution of control waters during construction.
- Measures for controlling the use of site lighting whether required for safe working or for security purposes.
- locations for the storage of all plant, machinery and materials including oils and chemicals to be used in connection with the construction of the development.
- the control and removal of spoil and wastes.
- A scheme of piling methodology, which provides justification for the method chosen and details of noise and vibration suppression methods proposed
- Mitigation measures for the protection of amphibians' mammals, breeding birds, hedgerows and retained vegetation;
- Measures to control flooding on site during construction
- Waste audit

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

Reason: To ensure a satisfactory development and to protect adjacent residential amenity

4. No development shall take place until a site-specific Construction Traffic Management Plan (CEMP) has been submitted to and been approved in writing by the Council. The development shall be implemented in accordance with the approved CTMP.

Reason: To ensure a satisfactory development and to protect adjacent residential and highway amenity

5.No development shall commence until a preliminary investigation report has been submitted to and approved in writing with the Local Planning Authority. The report must include:

- Desk study
- Site reconnaissance
- Data assessment and reporting
- Formulation of initial conceptual model
- Preliminary risk assessment

If the Preliminary Risk Assessment identifies there are potentially unacceptable risks a

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

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

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

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

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

7. Prior to commencement of development a detailed remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks and the relevant pollutant linkages identified in the approved investigation and risk assessment, must be prepared and is subject to the approval in writing of the Local Planning Authority.

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

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

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

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

8 No development shall commence until a sustainable surface water drainage scheme (including timetable for implementation), has been submitted to and approved in writing by the local planning authority. This drainage scheme shall be in accordance with the Drainage Layout Drawing Number 6392-DR-R01-Rev P4, dated 12 Dec 2023 and the principles outlined in the SuDS Pro-Forma, the Flood Risk Assessment and Drainage Strategy Reports.

The scheme shall be implemented in accordance with the approved details and timetable and retained thereafter in perpetuity.

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

9 No development shall commence until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. Those details shall include:

- i) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter, managed and maintained in perpetuity in accordance with the approved details.

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

During Building Works

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10 a) The approved remediation strategy must be carried out in accordance with its terms prior to the commencement of development other than development required to carry out the remediation.

b) Following completion of the remedial works identified in the approved remediation strategy, a verification report that demonstrates compliance with the agreed remediation objectives and criteria must be produced and is subject to the approval in writing of the Local Planning Authority, prior to commencement of use of the development.

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

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

b) Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be included in the verification report required by Condition 10.

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

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

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

13 A suitable scheme of acoustic glazing for the care home shall be agreed in writing with the Local Planning Authority. The approved scheme shall be implemented before the care home becomes first occupied and retained thereafter.

Reason: In the interest of residential amenity.

14 A suitable scheme of acoustically treated ventilation for the care home shall be agreed in writing with the Local Planning Authority. The approved scheme shall be implemented before the care home becomes first occupied and retained thereafter.

Reason: In the interest of residential amenity.

15 A suitable scheme of alternative ventilation of the care home based upon Section 4.2 and 5 of the Noise Impact Assessment Report Ref: 101139-V2 dated 23 October 2023 shall be submitted to and approved in writing with the local planning authority. The approved scheme shall be implemented before the care home becomes first occupied and retained thereafter.

Reason: In the interest of residential amenity.

16 No development above slab level shall take place until details of the facing materials to be used in the external construction of this development shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the construction of the development.

Reason: In the interest of visual amenity.

Before the Development is Occupied

17 The development shall not be occupied until details including the height, length, width and materials of the substation have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full.

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

18 No development shall be occupied until a suitable scheme of 1) assessment and 2) noise control for any plant and machinery has been submitted to and approved in writing by the local planning authority. The approved scheme must be installed before the plant becomes operational and retained thereafter.

Reason: In the interests of residential amenity.

19 No development shall be occupied until details in respect to the proposed boundary treatment including details for an acoustic fence between the car park and adjacent residential properties has been first submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be implemented in full accordance with the approved details.

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Reason: In the interest of visual and residential amenity.

20 The development shall not be occupied until a landscaping plan based upon the principles of the Landscape Masterplan Drawing Reference: 1641-001 Rev E and Section 3.3 of the Ecological Addendum November 2023 has been submitted to and approved in writing by the local planning authority.

The approved scheme shall be implemented within the first planting season following the first use of the building.

Reason: In the interest of visual amenity and ecological enhancements.

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

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

22 Prior to the first occupation of the care home all windows in the east and west elevations to corridors shall be obscurely glazed to Pilkington code level 3.

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

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

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

24 No development shall be occupied until space has been laid out within the site in accordance with drawing no Drawing No. 22-2426 (02) 101 P07 for cars to be parked and for the loading and unloading of vehicles and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available for the parking of vehicles such purposes in perpetuity thereafter.

Reason: In the interests of highway safety.

Ongoing Conditions

25 The hairdressers and café that form part of the care home shall only be used by staff, residents and their visitors in the care home.

Reason: To ensure control over the operation of such facilities in the interests of highway amenity and neighbouring/ adjacent occupiers and land users.

26 If within a period of 5 years from the date of the planting of any tree proposed as part of the land scaping scheme, or any tree planted in replacement of it, is removed, uprooted or destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size shall be planted at the same place during the next planting season immediately following the death/removal/destruction of that tree.

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

27. The development shall only be occupied by persons over 55 years of age.

Reason: To provide appropriate facilities and ensure a satisfactory form of development for the over 55's.

28 The pedestrian access to Poverty Lane shall remain available for the lifetime of the development.

Reason: To support sustainable travel options.

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Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 24 July 2024

Subject: [DC/2024/00306](#)
[Former Gasworks, Litherland Road, Bootle L20 3JE](#)

Proposal: Approval of details reserved by Conditions 11, 12 and 13 attached to planning permission DC/2023/00560 approved on 7/12/2023

Applicant: c/o Agent **Agent:** Mr. Matthew Stocks
National Grid WSP

Ward: Derby Ward **Type:** Discharge of condition

Reason for Committee Determination: Request from the Planning Committee

Summary

Planning permission was granted for the dismantling of the Gasworks in December 2023 subject to several conditions. The Planning Committee requested that a condition be imposed requiring further details to be submitted in relation to the Construction Transport Management Plan and that these details be brought to their meeting for information and agreement.

The Highways Manager has raised concerns about the arrangements for abnormal loads to access the site. However, these details would be the subject of a highways licence and the Construction Traffic Management Plan is therefore recommended for approval.

Recommendation: Approve

Case Officer Catherine Lewis

Email planning.department@sefton.gov.uk

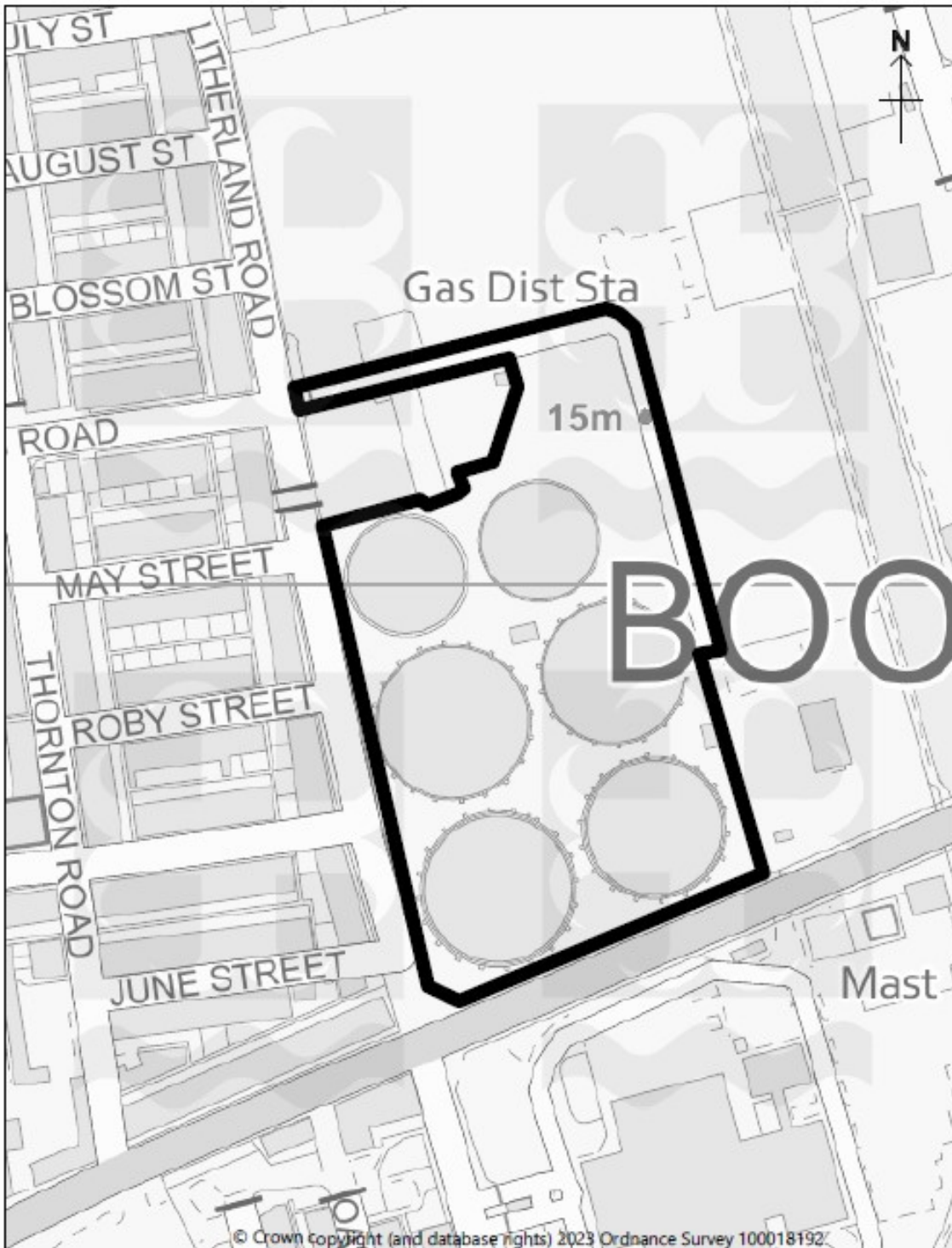
Telephone 0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S8YS3MNWJJ400>

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Site Location Plan



The Site

The application site is the Gasworks Depot on the corner of Litherland Road /Marsh Lane Bootle. The site is approximately 2.5ha and comprises 6 gasholders in an arrangement of two rows of three, small brick buildings and hard standing. The north of the site is mostly disused and consists of grassland and scrub which is in the applicant's ownership, beyond which are residential properties. There are two small areas to the east of the site which are adjacent to a Cadent Gas depot and the remainder of the land is owned by the applicant. The application site is bounded to the south by Marsh Lane and to the west by Litherland Road, where the site is accessed from and beyond which there are houses.

The wider site is entirely enclosed by a brick wall and steel palisade fencing near the entrance on Litherland Road. Marsh Lane and Litherland Road bound the site to the south and west respectively. The Leeds and Liverpool Canal (located approximately 1.5m higher than the site) lies immediately beyond the perimeter wall to the east. Residential properties are close to the north and west and although commercial uses (Litherland House) lie to the south, the predominant land use in the area is residential.

Within the wider site including the application site, Cadent Gas have live gas infrastructure which they maintain.

History

The most recent planning applications are set out below:

Ref: DC/2024/00307 Approval of details reserved by Conditions 3,4,5,6,7,8 and 19 attached to planning permission DC/2023/00560 approved on 07 December 2023. Pending a decision.

Ref: DC/2023/00560 Dismantling of gasholder and associated redundant infrastructure and associated infilling and restoration of site. Approved 07 December 2023

Ref: DC/2018/00080. Prior notification for the demolition of former gasworks. Decision: Prior Approval Required & Refused. 16 March 2018.

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Consultations

Highways Manager

Initially Highways advised that:

Condition 11 -no information submitted to mitigate the traffic impacts.

Condition 12: no contact had been made to discuss the scheme with Highways.

Condition 13 -no visibility splays at the junction of the site access had been submitted.

Amended information has been received which addresses most of the concerns raised by the Highways Manager as set out in the report below. However, the Highways Manager maintains their objection to conditions 11 and 12 due to the impact of the vehicle required to carry the abnormal loads upon the site access.

Neighbour Representations

Not applicable to an application to approve the details reserved by condition.

Policy Context

The application site lies within an area designated as a Regeneration Area under Policy ED6 in the Sefton Local Plan which was adopted by the Council in April 2017.

Assessment of the Proposal

1. Background

1.1 National Grid are planning the dismantling of the redundant gasholders and infilling of the resultant voids in accordance with National Grid's Ofgem obligation. Planning permission was granted for this work in December 2023 subject to several conditions. The Planning Committee requested that a condition be imposed requiring further details to be submitted in relation to the Construction Transport Management Plan and that these details be brought to their meeting for information and agreement.

1.2 The current application relates to Conditions 11 (off- site highway works); 12 (Construction Traffic Management Plan) and 13 (Visibility Splays).

2. Assessment

2.1 The applicant has submitted the document entitled "R12591 Bootle Traffic Management Plan" in relation to the management and mitigation of traffic movements to provide the information

required by all three conditions. Highways raised several concerns with the submitted information which has been revised four times. The relevant document is Revision 5, dated 9 July 2024.

2.2 All site movements would utilise the existing access via the double access gate and roadway located opposite Melling Road. The construction hours are likely to be Monday to Friday, from 08:00 until 18:00 although HGV movements for construction work will be restricted to the hours from 09:30 to 14:30 as advised by the Council to avoid peak school periods. This allows for a 5-hour window of construction vehicle movements each day.

2.3 The maximum HGV traffic is expected to generate seven HGVs per hour, the equivalent to 1 HGV every 8.5 minutes. An average allowance of five cars and LGVs each way per day has been considered as negligible and not included in calculations as these are expected to occur in the AM and PM peak, outside the time when construction vehicles are active.

Condition 11

No demolition shall commence 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 measures to mitigate traffic impacts at

- Litherland Road / Linacre Lane*
- Litherland Road / Summer Road*
- Litherland Road / Melling Road / Site Access*
- Litherland Road / August Street*
- Provision of road markings and signage associated with suspension of on-street parking spaces on Litherland Road*
- Measures to ensure visibility at the junction of Linacre Lane and Litherland Road*
- Proposals for joint pre and post construction road condition surveys to be undertaken by the applicant and the Sefton Highways.*

The highway works shall be completed in accordance with the approved details before the commencement of any demolition works and before any Heavy Goods Vehicles access the site.

2.3 Traffic impact assessments at these junctions have identified that the traffic impact associated with the proposed work has been largely avoided by restricting the HGV flows to outside the peak periods. Any residual impact from HGV movements on Litherland Road will be monitored and, when appropriate, temporary traffic management measures can be deployed during the construction peak period.

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Litherland Road / Linacre Lane

2.4 The route analysis and visibility splay analysis indicate that temporary parking suspensions on Linacre Lane are not required for the left hand turn out of Litherland Road into Linacre Lane. This will be reviewed as the project progresses and a Temporary Traffic Regulation Order (TTRO) will be applied for if it becomes an issue. The route analysis and swept path analysis indicates that there are sufficient existing measures in place for the left hand turn into Litherland Road from Linacre Lane (i.e. the double yellow lines which are enforced by Sefton Council) such that additional traffic measures or parking suspension are not required.

Litherland Road / Summer Road

2.5 A Temporary Traffic Regulation Order (TTRO) is proposed for a partial waiting restriction (single yellow line) to prevent parking Monday to Friday 8am to 6pm on the east side of Litherland Road between the site access and the existing build out (including the site access junction) throughout the duration of the works. This would be removed upon completion of the works.

2.6 To ensure safe traffic flow, temporary 'give-way' priority line markings may be installed on the road, as depicted in Drawing 808363-WOOD-FG-OT-0049_P01.5 Appendix 05, following Highways guidelines. These will be removed following completion of all site works.

Litherland Road / Melling Road / Site Access

2.7 It is anticipated that there would be three 2-way abnormal load movements to facilitate delivery of excavators at the start of the project and again at the end of the project. Abnormal load movements would be between 5am – 7am i.e. outside of peak times and be agreed with highways officers in advance.

2.8 The applicant has advised that to ensure the smooth movement of low loaders to and from the site at the beginning and end of the works, a temporary parking ban would be enforced for properties 263 to 277 Litherland Road, as depicted in the low loader tracking plans in Appendix 5. The contractor would implement this by placing no waiting cones the day before and alerting affected residents by letter in advance.

2.9 The Highway Manager has requested the applicant widen the site access to accommodate the abnormal load vehicles so that the underground services the vehicles would run above would not be compromised. The applicant considers this to be unreasonable and proposes the use of steel plates over the pedestrian footpath to protect the underground services. The applicant has confirmed that the plates would be used for only 2 hours a day and that if damage occurs at the start, this would be fixed immediately under highways supervision, and the contractors would not be able to use this method again at the end.

2.10 The Highways Manager has advised that the applicant would need to provide any method statements, risk assessments, etc. as required by the statutory undertakers to gain their approval and forward the written approval of all the utility companies to Sefton Highways. The Highways Manager requires formal confirmation and without that confirmation they maintain their objection to the Construction Traffic Management Plan and have also advised that they could not provide the highway licence to enable the works to take place.

2.11 If approval is not secured from the relevant utility providers, the applicant has advised that they would liaise with the local highways authority to agree an alternative solution for the movement of abnormal indivisible loads (AILs). This may be the suggested works to the pavement, an alternative route on Melling Road for these 12 vehicle journeys, or another solution. Therefore, the updated document provides for the opportunity to negotiate an alternative solution via the highways licence process rather than having a planning permission which is not able to be implemented.

2.12 The Senior Lawyer in Legal Services has advised that the detail required by Highways is not a planning point. Planning officers consider that it would be unreasonable for the purposes of the planning condition to request this level of detail which in effect would be covered by other legislation, namely the highways licence.

Litherland Road / August Street

2.13 The road at this point is wide enough to accommodate the proposed vehicle movements with visibility along Litherland Road on the approach to the August Street junction. Therefore, no additional traffic controls are considered necessary at the junction of Litherland Road and August Street.

Measures to ensure visibility at the junction of Linacre Lane and Litherland Road

The proposed traffic route is as follows:

Inbound Route to site:

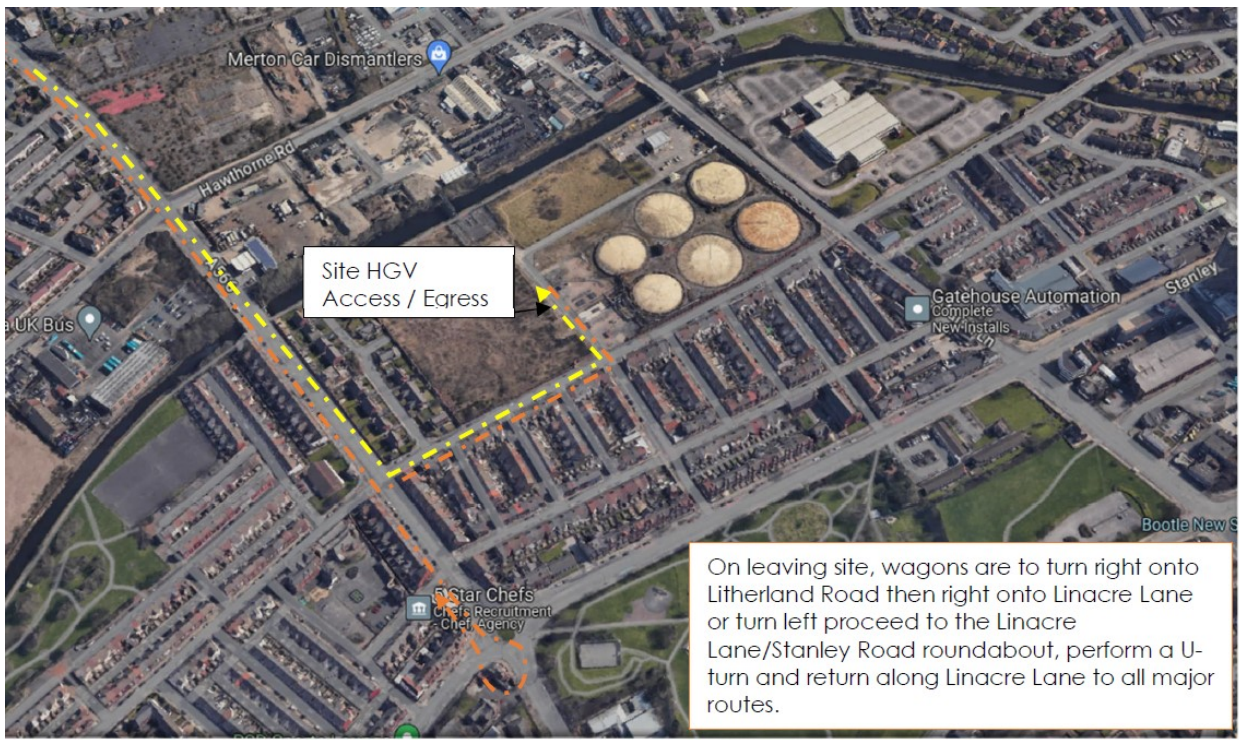
M57/M58/ A5758 > Dunnings Bridge Road/A5036 > A5038 > Linacre Lane/A566 junction with Hawthorne Road > Litherland Road.

Outbound Route from site:

Litherland Road > Linacre Lane/A566 > A5038 > Dunnings Bridge Road/A5036 > M57/M58/ A5758 junction

Agenda Item 5d

Figure 1: Aerial to demonstrate the proposed route of Heavy Goods Vehicles (HGV's).



2.14 In accordance with feedback from the Highways Manager, the exit route for wagons leaving the site has been revised. On leaving site, wagons are to turn right onto Litherland Road then right onto Linacre Lane or turn left onto Linacre Lane, proceed to the Linacre Lane/Stanley Road roundabout, perform a U-turn and return onto Linacre Lane leading to all major routes. The use of Stanley Road, Marsh Lane, and Hawthorne Road (south of Linacre Lane) is strictly prohibited for demolition traffic. This revision is based on discussions with the Highways Manager, including input from the traffic and safety team and the network team, to ensure the most appropriate route for highway safety and traffic management.

2.15 A Temporary Traffic Regulation Order (TTRO) would be needed for a partial waiting restriction (single yellow line) to prevent parking Monday to Friday 8am to 6pm on the east side of Litherland Road between the site access and the existing build out of the traffic calming measures (including the site access junction) throughout the duration of the works. HGVs are not to queue on Litherland Road or the surrounding areas. Road markings will be removed upon completion of the works.

2.16 The primary HGV movements would be 8-wheeled tipper wagons. These would be controlled locally by traffic marshals who will also be in radio contact with the drivers. To avoid double movements on Litherland Road a 5-10-minute gap between wagons will be implemented. In addition to this, the wagon drivers shall be in radio contact with one another to help avoid double

movements on Litherland Road. The applicant has confirmed that the preference is to use one aggregate supplier throughout the works to assist in controlling HGV movements.

Survey of the Road

2.17 Joint pre and post construction road condition surveys will be undertaken by the applicant and Sefton Council Highways.

Additional Measures required by Highways.

2.18 The Highways Manager requires the removal of the speed bump on Litherland Road south of the junction with July Street and its reinstatement upon completion of the project. The applicant has advised that the requirement is accepted in full and will be implemented in accordance with the Section 184 Licence with the works carried out to Sefton Council Standard and Specification under the supervision of Sefton Highways.

2.19 To conclude, the Highways Manager has raised a concern about the proposed access arrangements of the abnormal loads to the site. However, the level of detail is not a planning point and the submitted Construction Traffic Management Plan Revision 5 for the purposes of condition 11 is acceptable.

Condition 11 is recommended for approval.

Condition 12

No development shall commence until the Construction Traffic Management Plan dated July 2023 has been agreed with the local highway authority.

The Highways Manager has confirmed that the submitted information is acceptable except for the details relating to the access of the site for the abnormal loads. As discussed above this aspect would be controlled through Highway legislation and for planning purposes the details are acceptable.

Condition 12 is recommended for approval.

Condition 13

Before the demolition commences a plan to demonstrate the visibility splay of 2.4 metres by 25 metres for the existing site access shall be submitted to and agreed in writing by the local planning authority. The visibility at all times shall be maintained free of any obstruction exceeding 1 metre in height during the course of the entire demolition/construction period.

The applicant has submitted drawing number 808363-WOOD-FG-OT-00052_P01.2 within the Construction Traffic Management Plan Rev 5 to demonstrate the site access visibility splay.

Agenda Item 5d

The Highways Manager has confirmed that this is acceptable. Condition 13 is recommended for approval.

3. Conclusion

3.1 The Highways Manager has concerns about the access arrangements for the abnormal load and any impact upon the existing underground services by using steel plates as a form of protection. The applicant considers it is unreasonable to alter the access due to the limited number of vehicles movements, in total 12, and will undertake all reasonable endeavours to contact the utility companies to gain their written approval before using steel plates on the footway to protect the footway from damage. If the written approval is not forthcoming the applicant will discuss with Highways other alternatives. Although the Highways Manager has concerns about the proposed access details for the abnormal loads, Sefton's Senior Lawyer has advised that the highway legislation would be appropriate to address the details. Therefore, for the purposes of the application the Traffic Management Plan Revision 5 dated 9 of July 2024 is accepted and Conditions 11, 12 and 13 are recommended for approval.

Equality Act Consideration

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

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

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

Recommendation - Approve

Agenda Item 6

Report to:	Planning Committee	Date of Meeting:	Wednesday 24 July 2024
Subject:	Planning Appeals Report		
Report of:	Chief Planning Officer	Report of:	Chief Planning Officer
Portfolio:	Planning and Building Control		
Is this a Key Decision:	No	Is this a Key Decision:	No
Exempt / Confidential Report:	No		

Summary:

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

Recommendation(s):

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

Reasons for the Recommendation(s):

To update members on planning and enforcement appeals

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

N/A

What will it cost and how will it be financed?

(A) Revenue Costs

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

(B) Capital Costs

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

Agenda Item 6

Implications of the Proposals:

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

Contribution to the Council's Core Purpose:

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 Services and Commercial (FD.7715/24) and the Chief Legal and Democratic Officer (LD.5815/24.) 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.

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

Appendices:

The following appendices are attached to this report:

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

Background Papers:

The following background papers, which are not available anywhere else on the internet can be accessed on the Council's website <https://www.sefton.gov.uk/planning-building-control/search-and-view-planning-applications-and-appeals/>

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Appeals Received and Decisions Made

Email: planning.department@sefton.gov.uk

Contact Officer: Mr Steve Matthews 0345 140 0845

Please note that copies of all appeal decisions are available on our website:
<http://pa.sefton.gov.uk/online-applications/>

Appeals received and decisions made between 10 June 2024 and 04 July 2024

Appeal Decisions

3 Lunt Road Sefton L29 7WB

Reference: DC/2023/01653 (APP/M4320/D/24/3337988)

Erection of a dormer extension with a balcony to the rear of the dwellinghouse (Retrospective) (Alternative to DC/2023/00346 refused 07.07.2023)

Procedure: Householder Appeal
Start Date: 28/03/2024
Decision: Dismissed
Decision Date: 04/07/2024

Moor House The Northern Road Crosby L23 2RA

Reference: DC/2023/01952 (APP/M4320/Z/24/3337983)

Advertisement consent for the display of three non-illuminated signs. (Alternative to DC/2023/00799 refused 19 July 2023)

Procedure: Householder Appeal
Start Date: 10/05/2024
Decision: Dismissed
Decision Date: 28/06/2024

191 Moorhey Road Maghull L31 5LG

Reference: DC/2023/01855 (APP/M4320/D/24/3340729)

Erection of a new fence from a height of 1270mm to 1740mm along the side and the front of the dwellinghouse (Retrospective)

Procedure: Householder Appeal
Start Date: 26/04/2024
Decision: Dismissed
Decision Date: 25/06/2024

Land At Powderworks Lane Melling Liverpool L31 1AU

Reference: DC/2022/01968 (APP/M4320/X/23/3328561)

Certificate of Lawfulness for the continuation of use of Land at Powderworks Lane as an industrial site, used for storage of materials, with small existing workshop buildings.

Procedure: Written Representations
Start Date: 07/11/2023
Decision: Allowed
Decision Date: 18/06/2024

New Appeals

4 Palatine Road Birkdale Southport PR8 2BS

Reference: DC/2023/01289 (APP/TPO/M4320/9882)

Tree Preservation Order application to fell 7No. trees (G1/T1/T2) and crown lift 1No. tree (T3) (lies within TPO98.8)

Procedure: Householder Appeal
Start Date: 26/06/2024
Decision:
Decision Date:

Agenda Item 6

Appeals received and decisions made between 10 June 2024 and 04 July 2024

Reference: DC/2023/01393 (APP/M4320/W/24/3344748)

Erection of a single storey storage building (B8).

Procedure: Written Representations

Start Date: 27/06/2024

Decision:

Decision Date:

Land Off Bankfield Lane Churchtown Southport

Reference: DC/2021/00924 (APP/M4320/W/24/3344143)

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

Procedure: Written Representations

Start Date: 02/07/2024

Decision:

Decision Date:



Appeal Decision

Site visit made on 25 June 2024

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

an Inspector appointed by the Secretary of State

Decision date: 4 July 2024

Appeal Ref: APP/M4320/D/24/3337988

3 Lunt Road, Sefton L29 7WB

- 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 S Proffitt against the decision of Sefton Metropolitan Borough Council.
 - The application Ref is DC/2023/01653.
 - The development proposed is the erection of a dormer extension with a balcony to the rear of the dwellinghouse.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the planning application form, with the exception of the reference to retrospective as it is not an act of development.
3. In situ at the time of my visit, the dormer extension is retrospective. Although appearing to accord in overall size and position with the submitted plans, there are deviations regarding the fenestration treatment and position.
4. Nevertheless, I am satisfied that there is sufficient detail on the supplied drawings, to properly assess the impact of the proposal in relation to the main issues. I am required to assess the development as proposed and not as built on site. The appeal has been determined accordingly.

Main Issues

5. The main issues in this appeal are;
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect on the character and appearance of the area, including the Lunt Village Conservation Area (LVCA); and
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate Development

6. Paragraph 154 of the Framework indicates that other than in connection with a small number of exceptions, the construction of new buildings should be

- regarded as inappropriate in the Green Belt. The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building, is one of the exceptions (154c). The Framework does not define a disproportionate addition.
7. Policy MN7 of A Local Plan for Sefton (LP) 2017 and the House Extensions Supplementary Planning Document (SPD) 2023 set out how the Council will apply and interpret the requirements of national Green Belt policy. They state that proposals to extend the original building by more than one third volume, either individually or cumulatively with other extensions will be considered disproportionate and therefore, inappropriate in the Green Belt.
 8. Whether or not the Council has previously permitted other extensions at the appeal site that already exceed the MN7 Policy requirement, does not automatically justify more¹. The phrase 'in general' would apply to most cases and I have not been directed to any guidance to suggest that the policy would not be applicable here. When considered in combination with the previous extensions, the proposed dormer would result in a 72.5% increase in volume above that of the original dwelling².
 9. Although relatively small scale in itself, and not increasing the footprint or overall height of the host dwelling, the proposed dormer extension would increase the amount of built form at the appeal site. It would also be a sizeable and boxy addition to the hipped roof, such that it could not be described as being proportionate to the section of the dwelling it relates to. In light of the significant departure from the volume permissible under Policy MN7 of the LP and the additional bulk that the proposal would add to the dwelling, it is clear that the extension would be cumulatively disproportionate.
 10. Consequently, the proposal would be inappropriate development in the Green Belt. It would conflict with Policy MN7 of the LP and would not meet the exception for development set out in paragraph 154c) of the Framework.

Openness

11. Paragraph 142 of the Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension.
12. The erection of a new extension to a dwelling, would result in a spatial loss of openness to the Green Belt, albeit limited due to the scale of development. Although located predominantly to the rear, the proposed dormer would due to the hipped roof, be partially visible from within the street scene and Lunt Road on the opposite side of the wide verge. The increased bulk and mass would also be apparent from the rear gardens of adjacent dwellings.
13. Consequently, the proposal would result in limited harm to the spatial and visual openness of the Green Belt that would endure for the lifetime of the development. Conflict is therefore found with paragraph 142 of the Framework.

Character and appearance

14. In accordance with the duty imposed by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am required to pay special

¹ The appellant suggests that the previously approved 2-storey side and single storey rear extensions amount to a 68% increase in volume to the original dwelling as set out at paragraph 4.14 of the appellant's statement of case.

² As set out in the Council's email dated 17 June 2024 and is undisputed by the appellant.

- attention to the desirability of preserving or enhancing the character or appearance of the LVCA.
15. The LVCA is characterised by a loose arrangement of pre-war rural buildings to the north-east and a 1950's former Council built estate, located within a rural setting including agricultural land, village green and spacious verges framed by hedgerows. It is this spatial and historical composition that shapes the significance of the LVCA.
 16. The 1950's estate consists of 2-storey semi-detached and terraced dwellings that have a consistent building line and architectural style, with simple hipped and gabled roof forms providing a degree of uniformity that minor variations of house types and recent alterations and single storey extensions do not affect significantly. As a semi-detached dwelling, the appeal site makes a positive contribution to the LVCA.
 17. Despite sitting slightly below the ridge of the main roof, the proposed dormer would be large, filling the entire rear roof slope and extending onto the roof of the side extension, with little space remaining to the eaves. Its box-like form and elevated position would result in a top-heavy and dominant feature, such that it could not be considered as subordinate to the original roof form. Furthermore, it would jar with the simple, unextended roof forms of the estate dwellings that are characteristic of the LVCA.
 18. The proposed dormer would have an awkward arrangement overlapping the hipped roof above the side extension. This along with its large scale, would render it visible from within the street scene, albeit in relatively localised views and at an oblique angle, as well as from within Lunt Road to the south-east. Private views from the dwellings to the north-west would also be possible. Neither the use of sympathetic materials nor consideration of the estate as forming a suburban enclave,³ would mitigate the harmful impact of incongruous development that fails to take account of the host dwelling or its surroundings.
 19. Consequently, the proposal would cause harm to the character and appearance of the host dwelling and surrounding area. For these reasons, the development would not preserve or enhance the character or appearance of the LVCA and conflict is found with policies HC4, NH9 and NH12 of the LP. These policies seek to protect the significance of Sefton's heritage asset's including the simple rural character of village conservation areas, such as Lunt. Additionally, it would not comply with the provisions in the Framework which seek to sustain and enhance the significance of heritage assets.
 20. With reference to paragraphs 205 and 206 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Given the scale and localised impact of the proposal, the harm would be 'less than substantial' but nevertheless important, given the harmful effect on the character and appearance of the LVCA. Paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, a matter to which I will return later in this decision.

Other Considerations

21. No specific 'very special circumstances' have been advanced by the appellant⁴. Whilst no reference to the appellant's personal circumstances have been

³ As described within section 4.1 of the Lunt Village Conservation Area Appraisal and Management Plan (2024) and referred to in paragraph 4.22 of the appellant's statement of case.

⁴ Paragraphs 4.12, 4.19 and 5.4 of the appellant's appeal statement.

- advanced during the appeal process, the Council's evidence indicates that the proposed dormer extension is required to allow a disabled family member to live in the dwelling with the appellant.
22. Therefore, I have had regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. This requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic such as disability, and people who do not share it.
23. In the absence of any detailed information regarding a specific medical condition, it is not clear how the proposed dormer would facilitate accommodation for a disabled person, given its access via 2 flights of stairs. The reconfiguration of the dwelling would result in a more spacious layout, but there would not be a net increase in bedrooms to accommodate additional family members. The provision of living accommodation suitable to meet the needs of a disabled person does not therefore appear to be inherently reliant on the scheme before me. Carefully considered, the insufficient evidence before me is such that this matter attracts only limited weight.
24. The Council's SPD advises that in rare cases, very special circumstances to justify exceeding the one third volume additions to dwellings may be demonstrated if a site is in a village 'washed over' by Green Belt. It is not clear that this would be a rare case. Even if it were, exceeding the policy requirement would cause material harm to the character and appearance of the dwelling and the LVCA, and the openness of the Green Belt from the specific development proposed.

Balance and Conclusion

25. I have found that the proposal would be inappropriate development in the Green Belt, which is by definition, harmful and should not be approved except in very special circumstances. Harm would also be exerted on the openness of the Green Belt. In line with paragraph 153 of the Framework, I give this harm substantial weight.
26. Similarly, I have found that the proposal would result in harm to the character and appearance of the area, including less than substantial harm to the significance of the LVCA. I give this harm considerable importance and weight. No public benefits have been presented.
27. Having regard to the other considerations set out above and the limited weight that can be attached in favour of the proposal, it would not clearly outweigh the substantial weight which must be given to Green Belt harm and any other harm. Therefore, the very special circumstances required to justify the proposal do not exist.
28. Accordingly, for the reasons given above, the appeal is dismissed.

M Clowes

INSPECTOR



Appeal Decision

Site visit made on 25 June 2024

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

an Inspector appointed by the Secretary of State

Decision date: 28 June 2024

Appeal Ref: APP/M4320/Z/24/3337983

Moor House, The Northern Road, Crosby L23 2RA

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr K Stanton [Kayess Holdings Ltd] against the decision of Sefton Metropolitan Borough Council.
 - The application Ref is DC/2023/01952.
 - The advertisement proposed is the display of three non-illuminated signs.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the banner heading above is taken from the Council's decision notice as it more accurately and concisely describes the advertisements proposed. The reference to an alternative scheme has been deleted as it has no relevance to the current proposal.
3. At the time of my visit, I saw that the advertisements were already being displayed at the appeal site. For clarity I have determined the appeal based on the submitted plans.
4. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations), paragraph 141 of the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG), all confirm that advertisements should be subject to control only in the interests of amenity and public safety. Whilst the Council has drawn my attention to the policies it considers relevant to this appeal, and I have taken them into account as a material consideration, the Council's policies have not, by themselves, been decisive.
5. Reference is made in the Conservation Officer consultation response and subsequent officer report, to the proposal causing 'less than substantial harm' to the setting of a number of listed buildings. However, paragraphs 205-209 of the Framework relate to heritage related consent regimes under the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and are not relevant to advertisement consent appeals. I have proceeded on that basis.

Main Issue

6. Both parties agree that the proposal would not harm public safety, such that I do not need to consider this further. Thus, the main issue of this appeal is the effect of the advertisements on amenity.

Reasons

7. The appeal site comprises the rear elevation of a single storey range of flat-roofed garages associated with the adjacent Moor House block of flats. Set back behind an open lawned area, it is located in a prominent position close to the well-trafficked roundabout and associated junctions of Moor Lane, The Northern Road, Moorland Avenue and the A565. Immediately to the east are the Grade II listed dwellings of No 28-34 Moor Lane.
8. The significance of the listed buildings lies in their 19th century origins, domestic scale and architectural quality, evident in the fine detailing including raised sandstone dressings and hornless sash windows. They therefore have historical, aesthetic and evidential value. Their setting is formed by the residential character of the area, including predominantly 2-storey dwellings of differing ages and architectural styles, set back behind small front gardens bounded by low walls and planting.
9. The statutory duty under section 66(1) of the Act which requires decision makers to 'have regard to preserving the listed building or its setting or any features of special architectural or historic interest,' only applies to the consideration of whether to grant planning permission or permission in principle. However, I have considered the contribution the listed buildings make to the general characteristics of the area in terms of amenity. Whilst the area has undoubtedly undergone change since the listed buildings were constructed, they contribute positively to the pleasant residential character which remains.
10. Paragraph 141 of the Framework acknowledges that the quality and character of places can suffer when advertisements are poorly sited and designed. The static adverts consist of a vinyl banner or aluminium dibond attached to a thin board, such that they are not of a particularly high quality.
11. From the approaches along Moor Lane on both sides of the roundabout, as well as from the junction with Moorland Avenue, the appeal site lies within the setting of the listed buildings, particularly that of No 28 Moor Lane which is immediately adjacent to the appeal site. Deliberately designed to attract attention by their large size and bright colours, the adverts are incongruous and conspicuous additions which visually compete with the listed buildings, detracting from and failing to preserve their residential setting.
12. Furthermore, the adverts take up the majority of the wall space on which they are sited, such that they appear out of scale with the host building. Their presence is particularly striking and harmful given the general absence of advertisements locally, especially of this scale. Given the importance of the listed buildings to the general character of the area, the adverts are harmful to visual amenity.
13. The appellant advises that advertising banners have been displayed at the appeal site over the past 5 years. Even if that is the case, there is no evidence before me that they had the benefit of advertisement consent. This does not affect my findings.
14. The advertisements harm amenity and therefore conflict with Policies EQ11, NH11 and NH9 of A Local Plan for Sefton (2017). Together these policies seek to ensure advertisements respect the scale of and are sympathetic to their immediate surroundings, including the setting of heritage assets.

Other Matters

15. The appellant cites the signs as an improvement to vandalism that has previously occurred at the appeal site. I observed there was no other graffiti in the surrounding area including on the garage block to the south of Moor House to indicate that it was particularly problematic in the area. Even so, there is no evidence before me that the advertisements are the only way to address the previous graffiti.
16. Although the advertisements promote 3 small to medium enterprises, none of the businesses are located at or within proximity of the appeal premises. It is likely therefore, that there are other ways of promoting these businesses without causing the harm identified.
17. Photographs of other signage at locations on Liverpool Road and Little Crosby Road do not affect my findings, as they are shown in isolation without evidence of their surrounding context or whether they have the benefit of advertisement consent. The adverts on College Road as depicted in the supplied photographs appear to have a commercial setting where other signage is prevalent, such that they are not comparable to the context before me.
18. It is a matter for the parties as to whether a suitable solution for the adverts may be available at the appeal site or an alternative location.

Conclusion

19. For the above reasons, the display of the advertisements is harmful to visual amenity. The appeal is dismissed.

M Clowes

INSPECTOR

Appeal Decision

Site visit made on 1 June 2024

by A Hartley, LLB(Hons), Solicitor, MBA

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Appeal Ref: APP/M4320/D/24/3340729

191 Moorhey Road, Sefton, Maghull, Liverpool, L31 5LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Thomas Armstrong against the decision of Sefton Metropolitan Borough Council.
 - The application Ref is DC/2023/01855.
 - The proposed development is erection of a new fence from a height of 1270mm to 1740 mm along the side and the front of the dwellinghouse.
-

Decision

1. The appeal is dismissed.

Procedural Issue

2. At the site visit I noted that the appeal proposal had already been erected. The description given on the application form includes the word 'Retrospective' but as this is not a description of development, I have omitted it.

Main Issue

3. The effect of the proposal on the character and appearance of the building and the surrounding area.

Reasons

4. The appeal site is located on a bend along Moorhey Road. The dwelling is set back from the road with gardens to the front and side. The fence is in a particularly prominent position near to Moorhey Road and a footpath cutting across an area of open space and providing access to several properties. The surrounding development is a mixture of residential dwellings and retail units with parking. Low boundary walls and hedging predominate, together with large open grassed areas within the Moorhey Road street-scene.
5. Although my attention has been drawn to examples of other fences in the nearby area, their context differs from that of the appeal property. The appeal property is situated at a prominent corner, adjacent to a large expanse of public grassed area and in full view from the parade of shops and the car parking area opposite. In its position the fence is highly visible and due to its varying height and poor design in this context, it appears incongruous within the character of the area described above and adversely impacts on the character of the building by diminishing the sense of spaciousness around it.

6. Consequently, I find that the proposal conflicts with Policies HC4 and EQ2 of the Sefton Local Plan (2017) and Policy MAG4 of the Maghull Neighbourhood Plan (2019) in that it fails to respond positively to the characteristics of the area identified above.
7. National Planning Policy Framework paragraph 139 is also engaged which states that development that is not well designed, particularly where it fails to reflect local design guides, should be refused.

Other Matters

8. The Appellant states they are willing to work with the Council to find a solution and to change the design and colour of the fence. Although a condition could be imposed to change the colour and design of the fence, this would not overcome the identified harm caused by its height.
9. The Appellant requires the height of the fence marked A-B on the submitted plan to be 1740mm to prevent passers-by looking into their living room window and headlights shining into the living room at night from the car parking area opposite. However, I find that these purported benefits to living conditions do not outweigh the harm identified above.
10. The Appellant also states they are willing to reduce the height of that part of the fencing marked B-C. This amended proposal is not before me. However, even if it were, reducing the height of only part of the fencing would not overcome the fundamental harm caused by the height of that part of the fence marked A-B on the submitted plan, and would exacerbate the difference in height between the two areas of fencing, which would not be in keeping with the character of the area.
11. I have had regard to the third party representation in support of the proposal, however, this does not outweigh the harm caused by the proposal identified above.

Conclusion

12. Having taken into account all representations made, for the reasons given above, I conclude that the appeal should be dismissed.

A Hartley

INSPECTOR

Appeal Decision

Site visit made on 22 May 2024

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date 18 June 2024

Appeal Ref: APP/M4320/X/23/3328561

Land at Powderworks Lane, Melling, Liverpool L31 1AU

- 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 Gary Cringle against the decision of Sefton Metropolitan Borough Council.
 - The application ref DC/2022/01968, dated 10 October 2022, was refused by notice dated 26 January 2023.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which an LDC is sought is 'B8 – Storage or Distribution'.
-

Decision

1. The appeal is allowed and attached to this decision is an LDC describing the existing use which is found to be lawful.

Procedural matter

2. An application has been made by the Appellant for an award of costs against the Council. This application is the subject of a separate Decision.

Reasons

3. The main issue is whether there is sufficient precise and unambiguous evidence to justify a conclusion that, on the balance of probability, the land has been in continuous use for 'B8 – Storage or Distribution' for a period in excess of ten years prior to the date of the application. The ten year period does not need to be immediately before the date of the application but if it isn't then the established lawful use must not then have been abandoned.
4. Powderworks Lane is a cul-de-sac and provides access to a mix of industrial, commercial and residential properties. On the land is a dilapidated building and, at the time of the site visit, some building materials. Much of the land is unused and partly overgrown. The land has an extensive planning history including the issue of an enforcement notice on 13 November 2020. The planning history, including the enforcement notice, is not relevant to consideration of whether the land had attained a lawful use on the date of the application.
5. As noted above the application, in answer to question 4 on the application form, sought to establish that the lawful existing use of the land is 'B8 – Storage and Distribution'. However, in his appeal statement the Appellant claims that "...what is being asserted is that for a considerable period, well in excess of 10 years this land has been used as an industrial site". Use classes are set out in the Town and Country (Use Classes) Order 1987 as amended (the Order). The Order

has been amended on many occasions but the version that exists now is that which existed on the date of the application. The Order now has two Class B uses – 'Class B2 – General Industry' and 'Class B8 – Storage and Distribution'. The use of an industrial site falls under Class B2.

6. Question 5 on the application form requires the Applicant to fully describe the existing use for which an LDC is sought. The answer to this question is 'Industrial site, used for the storage of materials, with small part derelict existing workshop building'. This answer suggests that the claimed 'industrial site' could be so defined because it has been used for, amongst other things, the storage of materials. Question 6 requires the Applicant to state why an LDC should be granted. Part of the answer to this question is "The application...seeks to establish the lawful use of B8 (storage and distribution) in order to continue the activity of storage and distribution in line with historic use of this and adjacent sites".

7. The change of use of a Class B2 site to a Class B8 use is permitted development whilst the change of use of a Class B8 site to a Class B2 use is not permitted development. The use of land as an industrial site, a Class B2 use, cannot be a lawful use, as a matter of fact, if it is established that the land is in lawful Class B8 use. The nature of an application cannot be changed at appeal stage. The answers to questions 4 and 6 on the application form are unequivocal; the Applicant was, and the Appellant now is, seeking to establish that the lawful use of the land is 'Class B8 – Storage and Distribution', despite what is asserted in the Agent's statement. The appeal will be determined on this basis.

8. The Council rely upon their Officer's report on the application. It is clear that the Officer was distracted by the ambiguity in the application; the Officer stated that "There appears to be a misconception that the whole of the site...has an industrial use". The Officer, rather than considering the application on the basis of the use for which an LDC was sought, 'B8 – Storage and Distribution', considered it on the basis that the use sought was 'industrial site, used for storage of materials, with small existing workshop building'. The 'Certificate Not Issued' Notice continued this theme by describing the development as 'continuation of use...as an industrial site, used for storage of materials, with small existing workshop building'.

9. The land was purchased by the Appellant in February 2020 from Samlouis Ltd, which is owned by Mrs Paula and Mr Mark Doyle. Samlouis Ltd purchased the land in 2007 and is one of three property businesses owned and operated by Mrs and Mr Doyle. The three businesses operate from different addresses but it is claimed that they all used the land to store new and reclaimed materials. Mrs Doyle, in a statement dated 15 October 2021, states that "Since 2007...the site...has always been used as a storage and stock depot...The depot is used by staff and employees of the businesses. The staff and employees would store equipment, stock materials, and sometimes vehicles on the site".

10. The statement by Mrs Doyle is corroborated by Statutory Declarations, all properly sworn, signed and dated, by Mr R Seymour Senior, Mr J McLoughlin, Mr N Huntington, Mr P Cassidy and Mr R Gilmour. All five of the declarations, made by persons who were either employees of or who worked for the three companies owned by Mrs and Mr Doyle, paint a consistent picture of the storage use claimed by Mrs Doyle in her statement. The storage use did not occupy the whole site and the types of materials and equipment stored changed over time. But the land is a single planning unit and there was a continuity of storage use throughout the period of ownership by Samlouis Ltd between 2007 and 2020.

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Appeal Decision APP/M4320/X/23/3328561

11. Owners of businesses on Powderworks Lane have written in support of the Appellant's application and appeal and paint the same picture of storage use described by Mrs Doyle and in the Statutory Declarations. Local residents are opposed to the appeal and some refer to the historical agricultural use of the land. This may have been a historical use of the land but there is certain evidence that such a use ceased before or when Samlouis Ltd purchased the site. Residents have referred to the overgrown nature of part of the land but other comments by them do corroborate storage use of the land. Nothing stated by residents undermines the evidence in the Statutory Declarations and given by Mrs Doyle.

12. The overgrown nature of parts of the land can be seen in aerial photographs submitted in evidence by the Council. Comments made in relation to a photograph of 2010 include "Materials stored in the open" and "...visible vehicle access and wearing of the surface of the land by storage and vehicle use...", in relation to a photograph of 2011 comments include "Increased materials stored in the open in multiple locations..." and "Clearly visible vehicle access and wearing of the surface of the land by storage...use...", and in relation to a photograph of 2012 comments include "Vehicle on site and clear hardstanding...", "Materials stored alongside front of land...", "Materials stored behind and at left hand side of building...".

13. Similar comments to those in the previous paragraph are also made by the Council in relation to aerial photographs of 2015, 2016, 2018 and 2019. The photographs and the comments made by the Council corroborate the evidence of Mrs Doyle and those who have submitted Statutory Declarations that the land was consistently used for storage between 2007 and February 2020. No enforcement action was taken during that 13 year period against the storage use which thus gained immunity from such action. The Appellant has submitted a properly sworn, signed and dated Statutory Declaration which claims that the storage use that became lawful through the passage of time has not been abandoned.

14. The Appellant's claim is corroborated by an aerial photograph of April 2021, taken over a year after he purchased the land; the Council has commented that the "Photo shows use of site and materials stored". There is no evidence of any industrial use of the land but there is sufficient precise and unambiguous evidence to justify a conclusion that, on the balance of probability, the land has been in continuous use for 'B8 - Storage or Distribution' for a period in excess of ten years prior to the date of the application, and that the use has not been abandoned.

15. For the reasons given the Council's refusal to grant an LDC for 'B8 - Storage or Distribution' at Land at Powderworks Lane, Melling, Liverpool was not well-founded and the appeal thus succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 10 October 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The existing storage use of the land has subsisted continuously for in excess of ten years and has not been abandoned and is thus immune from enforcement action.

Signed

John Braithwaite

Inspector

Date 18 June 2024

Reference: APP/M4320/X/23/3328561

First Schedule

Class B8 – Storage or Distribution

Second Schedule

Land at Powderworks Lane, Melling, Liverpool L31 1AU

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Agenda Item 6

Appeal Decision APP/M4320/X/23/3328561

Plan

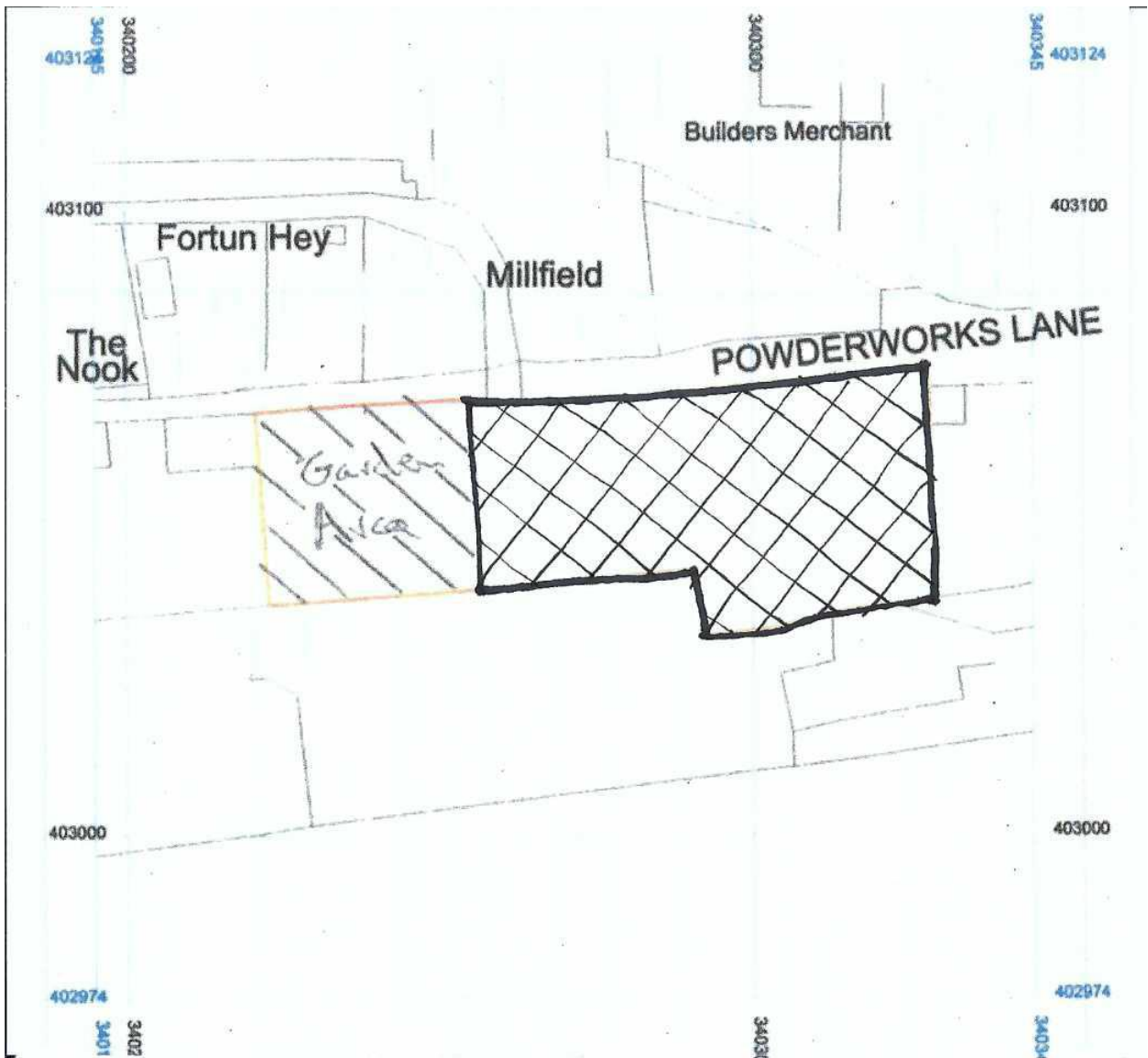
This is the plan referred to in the Lawful Development Certificate dated:

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

Land at Powderworks Lane, Melling, Liverpool L31 1AU

Reference: APP/M4320/X/23/3328561

Scale: Not to Scale





Costs Decision

Site visit made on 22 May 2024

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date 18 June 2024

Costs application in relation to Appeal Ref: APP/ M4320/X/23/3328561 Land at Powderworks Lane, Melling, Liverpool L31 1AU

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Gary Cringle for a full award of costs against Sefton Metropolitan Borough Council.
 - The appeal was against the refusal of an application for an LDC for 'B8 – Storage or Distribution'.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The enforcement notice dated 13 November 2020 is not relevant to the appeal and it is the Appellant, not the Council, who has failed to provide any information illustrating industrial use of the land. Instructing several professionals to act on his behalf is a choice made by the Appellant and does not, at all, constitute unreasonable behaviour by the Council.
4. The several professionals, in fact, have provided a confused case both to the Council and at appeal stage. The application sought an LDC for 'B8 – Storage or Distribution' but also referred to industrial use of the land, these being two different uses under the provisions of the Town and Country (Use Classes) Order 1987 as amended. This confused case was carried forward in the appeal. There is no evidence to support the claimed industrial use of the land whereas there is compelling evidence that the lawful use of the land is storage.
5. The Council, rightly, did not apply planning policy in their determination of the application because planning policy is not relevant to consideration of the lawful use of land, they did not apply a test higher than on the balance of probability, and they gave no weight to the location of the land within the Green Belt. The Council has not acted unreasonably and the Appellant has not therefore incurred unnecessary expense. An award of costs is not justified.

John Braithwaite

Inspector

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Planning Committee
Visiting Panel Schedule

Date Monday 22nd July 2024
Start: 10:00 am at BOOTLE TOWN HALL

Agenda Item	Time	Application Details	Ward
5D	10:10	DC/2024/00306 Former Gasworks Litherland Road, Bootle L20 3JE	Derby
5A	10:55	DC/2024/00421 5 School Road, Hightown L38 0BN	Manor
4A	11:20	DC/2024/00479 31 Clovelly Drive, Birkdale PR8 3AJ	Birkdale
5B	11:50	DC/2023/00065 Land Bounded By Poverty Lane To The South, A Railway Line To The West. Whinny Brook To The North And The M58 Motorway To The East, Maghull	Sudell
5C	12:10	DC/2023/02111 Land To The North East Of Poverty Lane North West Of Harrier Close Poverty Lane, Maghull	Sudell

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