

# Public Document Pack



MEETING: PLANNING COMMITTEE  
DATE: 13th November 2024  
TIME: 6.30 pm  
VENUE: Assembly Hall - Bootle Town Hall, Trinity Road, Bootle, L20 7AE

## 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. Joanne Williams

## Substitute

Councillor  
Cllr. Leslie Byrom C.B.E.  
Cllr. Janet Grace  
Sir Ron Watson  
Cllr. Jim Conalty  
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. Ian Maher

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

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

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

# AGENDA

## 1. Apologies for Absence

## 2. Declarations of Interest

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

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

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

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

Minutes of the Meeting held on 16 October 2024.

## 4. Applications for Planning Permission - Petitions

- A DC/2024/01545 - 102 The Serpentine North, Blundellsands** (Pages 11 - 20)  
Report of the Chief Planning Officer

## 5. Applications for Planning Permission - Approvals

- A DC/2024/01661 - 205 Strand Road, Bootle** (Pages 21 - 28)  
Report of the Chief Planning Officer

## 6. Planning Appeals Report (Pages 29 - 46)

Report of the Chief Planning Officer

## 7. Visiting Panel Schedule (Pages 47 - 48)

Report of the Chief Planning Officer

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

## PLANNING COMMITTEE

### MEETING HELD AT THE BOOTLE TOWN HALL ON 16 OCTOBER 2024

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

Councillors Brough, Desmond, Dodd, Johnson,  
Sonya Kelly, Christopher Page, Roche and Williams

ALSO PRESENT: Councillors Danny Burns, Howard and Veidman

#### 38. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Richards, J. Kelly, McGinnity, Thompson, Bradshaw (Substitute Member) and Spring (Substitute Member).

#### 39. DECLARATIONS OF INTEREST

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

Member	Minute No.	Nature of Interest
Councillor Hansen	Minute No. 42 DC/2024/01275 - 1- 11 Mersey View, Brighton Le Sands	Knows the petitioner

#### 40. MINUTES OF THE PREVIOUS MEETING

RESOLVED:

That the Minutes of the meeting held on 18 September 2024 be confirmed as a correct record.

#### 41. DC/2024/01463 - 102 THE SERPENTINE NORTH, BLUNDELLSANDS

The Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of an outbuilding to the rear garden (Part retrospective) be granted subject to the conditions and for the reasons stated or referred to in the report.

# Agenda Item 3

PLANNING COMMITTEE - WEDNESDAY 16TH OCTOBER, 2024

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

Councillor Howard, as Ward Councillor, made representations on behalf of objectors against the proposed development.

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.

## **42. DC/2024/01275 - 1-11 MERSEY VIEW, BRIGHTON LE SANDS**

The Committee considered the report of the Chief Planning Officer recommending that the above application for the change of use from offices (Class E) to a mixed use of offices and residential use including the erection of a first floor extension to create 4 self-contained flats and access to the front, and alterations to rear boundary wall be granted subject to the conditions and for the reasons stated or referred to in the report.

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

Councillor Howard, as Ward Councillor, made representations on behalf of objectors against the proposed development.

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.

## **43. DC/2023/01492 – FORMER OLD ROAN PUBLIC HOUSE COPY LANE, NETHERTON**

The Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of a 3-storey block of residential apartments, associated works and landscaping following the demolition of the existing vacant public house be granted subject to the conditions and for the reasons stated or referred to in the report.

Members made reference to a number of the 1<sup>st</sup> and 2<sup>nd</sup> floor windows in the development which were overlooked by the stairwell to the nearby Old Roan Station and considered that this issue needed to be addressed. Members also referred to the entrance and Parking area to the development off Copy Lane which was intended to be for servicing only and suggested that measures be included to ensure this was the case to ensure traffic safety.

**RESOLVED:**

That, the recommendation be approved and the application be granted subject to the conditions and for the reasons stated or referred to in the report and in Late Representations and the completion of a Section 106 legal agreement and subject to conditions for:-

- (a) a glazing scheme (e.g. mirrored glass) being included to achieve privacy for selected flats from people using the stairwell to Old Roan Station (the Chief Planning Officer being given delegated authority to agree the details); and
- (b) measures being included to ensure that the parking area off Copy Lane is restricted to servicing only.

**44. DC/2024/01359 - DENTAL SURGERY 44 NORTHWAY, MAGHULL**

The Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of a part two storey/part single storey extension to the rear and a single storey extension to the front to accommodate two additional surgeries, a dedicated staff room and additional storage space be granted subject to the conditions and for the reasons stated or referred to in the report.

Councillor Danny Burns, as Ward Councillor, made representations on behalf of objectors against the proposed development.

Arising from the discussion members referred to proposed cycle parking at the side of the premises which had been the subject of a proposed amendment to paragraph 4.3 of the Chief Planning Officer's report (included in the Late Representations document) and considered that this needed further investigation.

**RESOLVED:**

That, subject to the proposed amended paragraph 4.3 included in late representations being not approved and the inclusion of a condition requesting details of a cycle parking scheme, 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 16TH OCTOBER, 2024

## 45. 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
Southport Boat Angling Club	DC/2023/01393 (APP/M4320/W/24/3344748) - Land Adjacent And South Of 4 Promenade Ainsdale - appeal against refusal by the Council to grant Planning Permission for the erection of a single storey storage building (B8).	Allowed 13.09.24
Mr. C. Simpson	DC/2023/00737 (APP/M4320/W/24/3337581) - 117 Liverpool Road Birkdale Southport PR8 4BZ - appeal against refusal by the Council to grant reserved matters consent pursuant to outline planning permission DC/2020/02573 approved 31/5/2022 - for access, appearance, landscaping, layout, scale and other associated works	Dismissed 11.09.24
Wainhomes (North West) Ltd	DC/2021/00924 (APP/M4320/W/24/3344143) - Land Off Bankfield Lane Churchtown Southport - appeal against refusal by the Council to grant Planning Permission for the erection of 9 houses, together with a new vehicular access and associated works (part alternative to application reference DC/2017/00821)	Allowed 10.09.24

RESOLVED:

That the report be noted.

## 46. 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 14 October 2024.

# Agenda Item 3

PLANNING COMMITTEE - WEDNESDAY 16TH OCTOBER, 2024

Application No.	Site
DC/2023/01492	Former Old Roan Public House Copy Lane, Netherton
DC/2024/01359	Dental Surgery 44 Northway, Maghull
DC/2024/01463	102 The Serpentine North, Blundellsands
DC/2024/01275	1-11 Mersey View, Brighton Le Sands

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:** 13 November 2024

**Subject:**      **DC/2024/01545**  
**102 The Serpentine North Blundellsands L23 6TJ**

**Proposal:** Erection of a new brick wall, fencing and sliding gate to the front of the dwellinghouse (Part Retrospective)

**Applicant:** Mr & Mrs Dave & Holly Finnegan      **Agent:** Mr Tony Diaz  
Diaz Associates

**Ward:** Blundellsands Ward      **Type:** Householder application

**Reason for Committee Determination:** Petition endorsed by Cllr Howard

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## Summary

The proposal seeks permission for the erection of a boundary wall and fencing across the front of the site, plus an electronic sliding gate to the existing vehicular access point.

The main issues to consider are the principle of the development, the impact on the character of the Conservation Area and surrounding heritage assets, together with highways safety and trees. The scheme has been amended and the revised materials are acceptable and would not cause harm to the character of the area or raise any highways safety concerns. The proposal complies with the policies set out within the Sefton Local Plan and is recommended for approval.

## Recommendation: Approve subject to conditions

**Case Officer**      Louise Everard

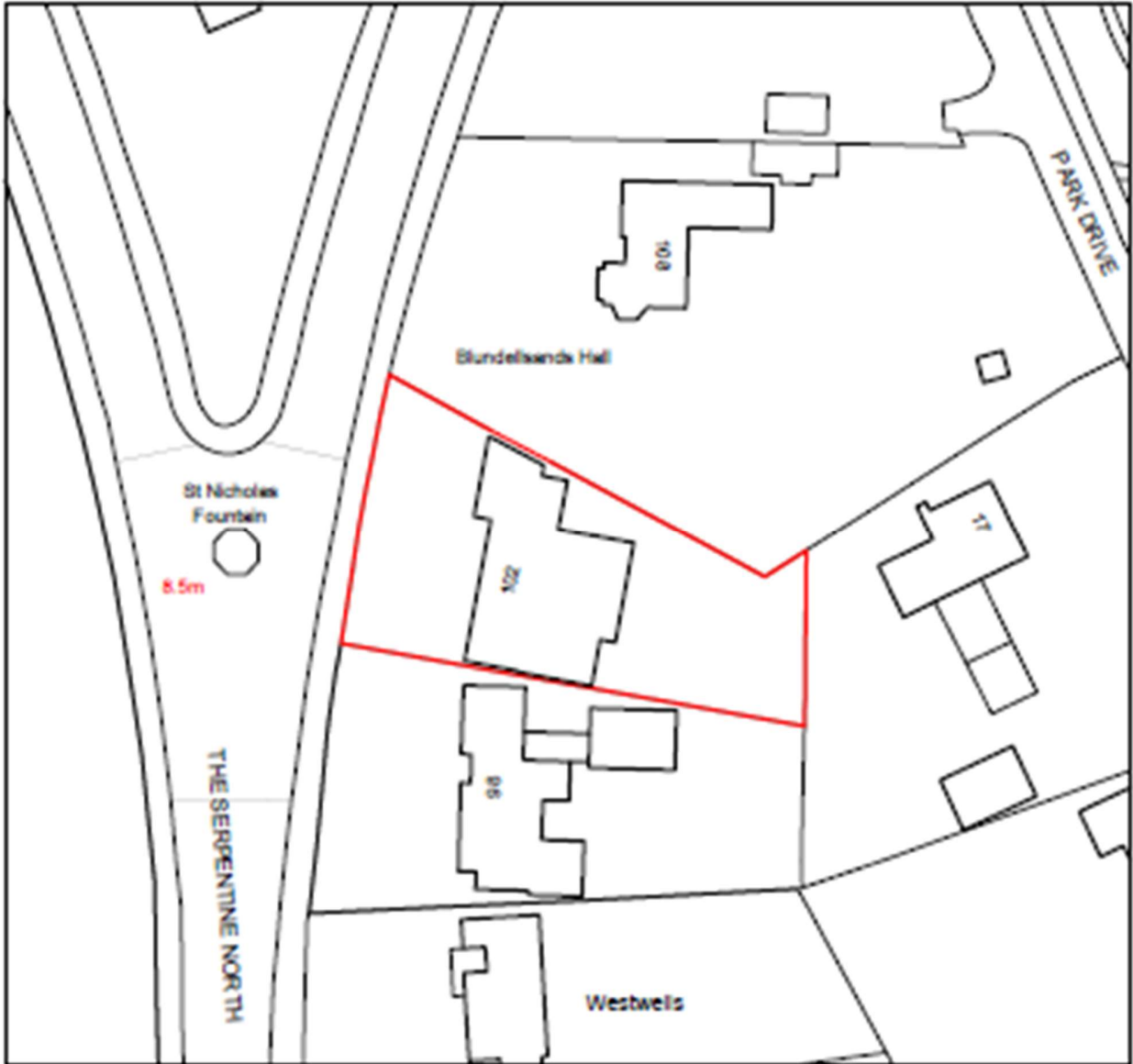
**Email**      [planning.department@sefton.gov.uk](mailto:planning.department@sefton.gov.uk)  
**Telephone**      0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SIIO6CNW09300>

# Agenda Item 4a

## Site Location Plan



## The Site

The application relates to a detached dwelling on the eastern side of The Serpentine North, Blundellsands. The site is located within the Blundellsands Park Conservation Area and the grade II Listed St Nicholas Fountain sits directly in front of the site. Blundellsands Hall, a non-designated Heritage Asset, is to the north of the property.

The property has been extensively remodelled and modernised following the granting of planning permission DC/2022/01269.

## History

DC/2024/01632 - Variation of condition 2 pursuant to planning permission DC/2022/01269 approved 21/10/2022 to allow for alterations to the elevations – Under consideration

DC/2024/01463 - Erection of an outbuilding to the rear garden (Part retrospective) – Approved 18/10/2024

DC/2023/01326 - Certificate of lawfulness for the proposed erection of a single storey garden room to the rear of the dwellinghouse – Refused 23/10/2023

DC/2024/01162 - Approval of details reserved by Condition 5 attached to planning permission DC/2022/01269 – Approved 07/08/2024

DC/2022/02374 - Approval of details reserved by conditions 3, 4, 5, and 6 attached to DC/2022/01269 – Approved 23/03/2023

DC/2022/01269 - Erection of a part two storey, part single storey extension to the south and east elevations, part conversion of the existing garage to a habitable room and erection of a first floor extension to the north elevation of the dwellinghouse, plus roof terrace to the front – Approved 21/10/2022

DC/2021/01739 - Erection of a two storey extension to one side, a part two storey/part single storey extension to the opposite side, a two storey extension to the rear, single storey extensions to the front and rear of the dwellinghouse, a roof terrace and partial conversion of the existing garages – Refused 06/06/2022

# Agenda Item 4a

## Consultations

### Conservation Officer

No objections subject to condition

### Tree Officer

No objections

### Highways Manger

No objections subject to conditions

## Neighbour Representations

The neighbouring properties were notified of the application on the 30<sup>th</sup> August 2024.

A petition has been submitted with 30 signatures, endorsed by Cllr Howard. Two objections have also been received from one address.

The concerns raised by the petition and objection letters are summarised as follows:

### Design

- Proposed wall contrary to Local Plan Policy EQ2 'Design', the National Planning Policy Framework and Sefton Council's Boundary Treatment Supplementary Planning Document
- Materials unlike any treatment within the Conservation Area
- Boundary treatment will act as a backdrop to Grade II St Nicholas Fountain and materials will not enhance the heritage feature
- Incongruous addition to street scene
- Higher than LPA allow and higher than two heritage properties to north and others

### Trees

- Untrue that no trees are within influencing distance
- All hedges removed to erect wall and trees pruned back to stem
- Wall within the root protection area

### Highways Safety

- Electric gates will pose hazard as waiting for entry immediately at junction

### Other matters

- Application incomplete as West Street views are not grey shape with no windows or features and not a true reflection of what is there or proposed.

- Heritage statement incorrect stating no.108 The Serpentine North is not listed and not considered to be a Non Designated Heritage Asset.

Following the submission of revised plans, with amended materials, the neighbouring residents were renotified on the 10<sup>th</sup> October 2024. Since the renotification, two further objections have been received from one nearby property. However, they do not raise any sustainably different concerns than those summarised above.

## Policy Context

The application site lies within an area designated as Primarily Residential in the Sefton Local Plan which was adopted by the Council in April 2017. The site is also located within Blundellsands Park Conservation Area.

# Agenda Item 4a

## Assessment of the Proposal

### 1. The Proposal

- 1.1 Retrospective permission is sought for the erection of boundary treatment along the front of the site, including a sliding gate across the existing vehicular access.
- 1.2 Initially the boundary was proposed to be a low dark grey brick wall with brick piers and grey upvc panelling in-between. The brick wall has been built but the infill panels have not been added. Amended plans have since been received proposing the installation of a 1.8m high vertical timber fence to the outside of the brick wall as erected. Two brick piers would remain visible on either side of the driveway.

### 2. Principle

- 2.1 The proposal is located within a primarily residential area and therefore the erection of replacement boundary treatment is considered acceptable in principle.
- 2.2 The site is also located within the Blundellsands Conservation Area and adjacent to a Grade II listed feature and a non-designated heritage building. Therefore, Policies NH9 'Heritage Assets', NH11 'Works Affecting Listed Buildings', NH12 'Conservation Areas' and NH15 'Non-designated Heritage Assets' are also of relevance and will be discussed below.

### 3. Design and impact on surrounding area

- 3.1 The policies listed in paragraph 2.2 seek to protect Sefton's heritage assets and their setting. Developments which have the potential to affect these should ensure that the features which contribute to their significance are protected. Policy EQ2 'Design' is also relevant and expects developments to respond positively to the character of the surrounding area and to integrate well within the street.
- 3.2 The previous boundary treatment along the front of the site was a timber fence with brick piers on either side of the driveway. The area is predominantly characterised by timber fencing or red brick walls. The dark grey brick wall and panelling as initially proposed would introduce an additional material/colouring along this section of the street. Given the expanse of the boundary treatment and contrasting materials and colours, it was considered that the wall would appear out of keeping with the area and would not respect the historic character of the site and Conservation Area.

- 3.3 Amended plans have since been submitted, which propose the installation of a 1.8m high timber fence along the outer face of the wall, screening the majority of the grey brick work when view from the street. A brick pier would only remain visible on either side of the driveway. The appearance within the street scene would be similar to the original boundary treatment and the height would only marginally increase from 1.75m previously in place to 1.8m. The minimal increase would have no significant effect on the character of the area and the proposed boundary would not appear unduly prominent. The sliding gate is proposed as a powder coated steel 'open slatted' gate. An open design would be acceptable in this setting, preferable to a solid finish, and a condition could be attached to allow for the final design to be approved prior to installation.
- 3.4 The boundary treatment would form part of the backdrop to the Grade II St Nicholas Fountain. As the proposed materials have been amended to better reflect the previous fencing and boundary treatment within the surrounding area, it is not considered the proposal would cause harm to the setting of the listed feature.
- 3.5 Overall, the material finish of the amended scheme is considered acceptable within the conversation area, protecting the existing characteristics and the design would integrate well within the street scene. The Council's Conservation Officer has confirmed that as the proposal is similar to the fencing that was on site previously, the development would not cause harm to the character and appearance of the Conservation Area or the setting of the nearby heritage assets. The proposal therefore complies with Local Plan policies EQ2, NH9, NH11, NH12 and NH15 and the Draft Boundary treatment Supplementary Planning Document.

## **4. Trees**

- 4.1 The Council's Tree Officer has advised that the vegetation at the front of the property has been maintained as a hedge and is treated as such and so is not subject to the legislation which applies to trees within a conservation area. Therefore, there are no trees relevant to the assessment. The hedge at the front has been pruned back away from the new boundary wall, so any impact by the wall, which follows the foundations of the original boundary, would be minimal. The Councils Tree Officer has raised no objections.

## **5. Highway Safety**

- 5.1 The fence is similar in height to the previous boundary treatment and will not significantly affect visibility. The proposal includes adding an electronic sliding gate across the existing vehicular access point which is currently open. Cars will have to wait while the gate opens before clearing the highway, due to the context of the site as described below this is not considered to result in a highways safety concern.

# Agenda Item 4a

5.2 There are double yellow lines on either side of the access point and so there should be no vehicles parked directly adjacent to the site which would affect visibility. The speed limit along this stretch of the road is restricted to 20mph, therefore vehicles travelling along The Serpentine North should be at relatively low speeds. The footway outside the premises is over 3m in width and combined with the existing highways restrictions in place, good visibility splays are maintained when exiting the driveway.

5.3 The proposed entrance is to remain in the same location, however the driveway would be widened from approximately 3m to 3.6m, improving the visibility and pedestrian safety when entering/leaving the site.

5.4 It is not considered that the introduction of the sliding gate would result in any significant harm to highway safety and the proposal would comply with Local Plan Policy EQ3 'Accessibility'.

## **6. Other Matters**

6.1 One of the concerns raised within the objections relates to insufficient information with the submitted West Street View plan, as only the outline of the application property is shown in grey and does not include details. However the application only seeks permission for the boundary treatment and it is considered that sufficient details have been provided to enable an assessment of this element.

6.2 Concern has been raised that the Heritage statement is incorrect in that it states no.108 The Serpentine North is not listed and not considered to be a Non Designated Heritage Asset. However, this committee report acknowledges that No.108 (Blundellsands Hall) is recognised as a Non Designated Heritage Asset and this has been considered in the assessment of the proposal.

## **7 Planning Balance and Conclusion**

7.1 The proposed boundary treatment has been amended to incorporate more appropriate materials for the area. It is considered that the development would not have any significant effect on the character of the Conservation Area, nor would it cause unacceptable harm to the surrounding heritage assets.

7.2 The proposal is considered to comply with the relevant Local Plan policies and is therefore recommended for approval.

## **8. Equality Act Consideration**

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



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

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

## Recommendation - Approve with Conditions

### Approved Plans

- 1) The development is hereby permitted in accordance with the following approved plans and documents:

686-30 - Location Plan

686-31-C - Existing and Proposed West Street View

Reason: For the avoidance of doubt.

### During Building Works

- 2) Prior to the installation of the sliding gate, details of the proposed finish shall be submitted to and approved in writing by the Local Planning Authority. The gate shall be installed in accordance with the approved details.

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

### Ongoing Conditions

- 3) Within three months from the date of the planning permission, timber vertically slatted fencing shall be attached to the outer face of the wall, in accordance with approved plan 686-31-C (Proposed West Street View). The fencing shall be retained in that condition thereafter.

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

# Agenda Item 4a

4. The sliding gate shall not be installed until the works to widen and reconstruct the existing dropped crossing onto The Serpentine North have been completed, in accordance with works approved under the Highways Act 1980.

Reason: To ensure the safety of highway users.

## **Informative**

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

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

**Report to:** PLANNING COMMITTEE      **Date of Meeting:** 13<sup>th</sup> November 2024

**Subject:** [DC/2024/01661](#)  
[205 Strand Road Bootle L20 3HJ](#)

**Proposal:** Change of use from a dwellinghouse (Class C3) to a children's home for up to 2 children (Class C2)

**Applicant:** Amelia Care      **Agent:** Mrs Ellie Laws  
Planning By Design

**Ward:** Derby Ward      **Type:** Full Application

**Reason for Committee Determination:** Called in by Cllr Robinson

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## Summary

The proposal seeks planning permission for the change of use from a dwelling house to a children's home to provide care for up to two children aged 8-18.

The main issues to consider are the principle of development, the impact on the living conditions of future occupiers and neighbouring properties, the impact on the character of the area and highways safety. It is not considered that the proposal would significantly harm the character of the area, the living conditions of either the future occupiers or neighbouring residents or highway safety. The proposal complies with the policies set out within the Sefton Local Plan and is recommended for approval subject to conditions and a Section 106 legal agreement.

**Recommendation:** [Approve subject to conditions and Section 106 legal agreement](#)

**Case Officer**      Louise Everard

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

**Telephone**      0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SJLR8ZNWLDH00>

# Agenda Item 5a

## Site Location Plan



## The Site

The application relates to a three bedroom end terrace dwelling, located on the corner of Strand Road and Cedar Street. The immediate surrounding area is residential in character, and the property is close to Bootle's commercial centre.

## History

None

## Consultations

### **Environmental Health Manager**

No objection subject to condition

### **Highways Manager**

No objections subject to condition

## Neighbour Representations

The application has been called in by Cllr Robinson based on concerns that there is insufficient information.

One letter of objection has been received raising concerns of antisocial behaviour and no guarantee it will be safe to existing neighbours.

One letter of support has also been received for the proposal for the reason that the children will be looked after by staff at all times.

## Policy Context

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

# Agenda Item 5a

## Assessment of the Proposal

### 1. Introduction

- 1.1 The proposal seeks planning permission for the change of use of the property from a dwellinghouse to a children's home to provide care for up to two children. No external changes are proposed to the building.
- 1.2 The main issues to consider are the principle of development, the impact on the living conditions of neighbouring properties, the impact on the character of the area and highways safety.

### 2. Principle

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

### 3. Living Conditions

- 3.1 It is important to consider the impact of the proposed use on the living conditions of the neighbouring residents as a result of possible noise and disturbance.
- 3.2 The use would provide care for up to two children between the ages of 8 and 18. The Planning Statement submitted as part of the application sets out how the premises would be managed in terms of staff arrangements: this would involve two carers at any time, working on a rota. The rota would work on the basis of six carers operating on a shift pattern of 48 hours on, 96 hours off. Other than change over times, there would be no more than 3 carers on the premises at any one time. There would be one changeover of the overnight care staff each day. Visitors to the home would be closely supervised by support staff and are not expected to result in numbers which would exceed that of a typical household use.

- 3.3 Only two of the habitable rooms, the front living room and front bedroom (bedroom 1), share a party wall with the adjoining property 207 Strand Road. The Environmental Health Manager has advised that to protect the living conditions of the adjoining residents in No 207 from any potential disturbance, a minimum sound insulation value (DnT,w 57dB) should be demonstrated or achieved for the two rooms sharing a common wall with the attached property. This could be secured by condition. Overall it is considered the use would be unlikely to result in unacceptable levels of noise.
- 3.4 A legal agreement is recommended to give the option of first refusal to Sefton's Children's Services to house children from Sefton. This would give the option of a greater level of control to the Local Authority, in that the management of the premises and care for the children could be monitored by Sefton Children's Services.
- 3.5 Concern has been raised regarding safety of neighbouring residents. While this is a material consideration, there is no evidence to substantiate such a claim. However should any issues arise they would be managed by legislation or bodies outside of planning as in any other instance of anti social behaviour or crime, such as the police.
- 3.6 The proposal is therefore considered to comply with Local Plan Policy HC3 (Primarily Residential Areas) and HC4 (House Extensions, Houses in Multiple Occupation and Flats).

## **4. Character**

- 4.1 Policy EQ2 (Design) of the Local Plan seeks to ensure that proposals respond positively to the character and appearance of the area.
- 4.2 Given the number of children, the proposal would not result in a significant intensification of use in comparison to the number of occupants that could reside in the property as a single dwelling house. No external changes are proposed to the property and it is not considered that the proposed use would cause harm to the character and appearance of the area. As such the proposal is considered to comply with Policy EQ2 (Design).

## **5. Highways**

- 5.1 Policy EQ3 (Accessibility) of the Local Plan seeks to ensure that proposals do not cause any harm in terms of highway safety.
- 5.2 The existing dwelling consists of 3-bedrooms and is an end terrace property. There is no scope for off-street parking. The number of bedrooms is not proposed to increase and trips generated by the proposed change of use will not be significantly different from the existing use.

# Agenda Item 5a

5.3 The site is in Bootle Town centre which is an accessible location, with several bus stops within acceptable walking distance on Stanley Road and Marsh Lane. Bootle Strand railway station is also within the preferred maximum walking and the recommended maximum cycling distance of the site.

5.4 The Highways Manager has raised no objections to the proposal, as there are no adverse highway safety implications, subject to provision being made for cycle storage in accordance with the Sefton Council Parking Standard set out in Council guidance 'Sustainable Travel and Development' (June 2018). The proposal therefore complies with policy EQ3.

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

6.1 The proposed use is acceptable in principle within the residential area. A condition can be attached to ensure adequate sound insulation to rooms that share a party wall with the adjoining property.

6.2 In addition to the above, a legal agreement could ensure Sefton's Children's Services are offered first refusal to house children from Sefton within the care home, giving the Local Authority some control in terms of monitoring how the premises are occupied and managed.

6.3 It is concluded that the use of the premises as a care home for 2 children can be accommodated without causing significant harm to the living conditions of the neighbouring residents, character of the area or highway safety. The proposal complies with the relevant Local Plan Policies and is recommended for approval, subject to conditions and a 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, 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 subject to conditions and 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 shall be carried out in accordance with the following approved plans and documents:

- 24.205SR.P03 - Proposed Floor Plan
- 24.205SR.P04 - Proposed Elevations
- 24.205SR.P05 - Location and Block Plan

Reason: For the avoidance of doubt.

### Before the Development is Occupied

3) The use hereby approved shall not commence until facilities for the secure storage of cycles have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority and they shall be retained for the life of the development.

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

4) Prior to first occupation

a) A scheme of sound insulation to protect the adjoining residential dwelling at Number 207 Strand Road from the proposed children's home shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure the front lounge and front bedroom (bedroom 1) that share a party wall with 207 Strand Road achieve a minimum sound insulation value of  $D_{nT,w}$  57dB.

b) The soundproofing shall be carried out in accordance with the scheme approved under (a) and shall be retained for the lifetime of the development.

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

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**Report Title:** Planning Appeals Report

Date of meeting:	Wednesday 13 <sup>th</sup> November 2024		
Report to:	Planning Committee		
Report of:	Chief Planning Officer		
Portfolio:	Housing and Highways		
Wards affected:	All Wards		
Is this a key decision:	No	Included in Forward Plan:	No
Exempt/confidential report:	No		

**Summary:**

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

**Recommendation(s):**

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

# Agenda Item 6

## 1. The Rationale and Evidence for the Recommendations

This report is for information only.

## 2. Financial Implications

There are no financial implications

## 3. Legal Implications

There are no legal implications

## 4. Corporate Risk Implications

There are no Corporate Risk implications

## 5 Staffing HR Implications

There are no Staffing HR implications

## 6 Conclusion

This report is to update members on planning and enforcement appeals

### Alternative Options Considered and Rejected

N/A

<b>Equality Implications:</b>
There are no equality implications.
<b>Impact on Children and Young People:</b>
There is no impact on Children and Young People
<b>Climate Emergency Implications:</b>
The recommendations within this report will have a Neutral impact.

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

### (A) Internal Consultations

The Executive Director of Corporate Services & Commercial (FD.7818/24.....) and the Chief Legal and Democratic Officer (LD.5918/24....) have been consulted and any comments have been incorporated into the report.

### (B) External Consultations

Not applicable

### Implementation Date for the Decision :

No decision required, for information only.

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

Contact Officer: Mr Steve Matthews 0345 140 0845

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

Appeals received and decisions made between [23 September 2024](#) and [24 October 2024](#)

**Appeal Decisions**

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[43 Blundell Road Hightown Liverpool L38 9EF](#)

**Reference:** DC/2023/00203 (APP/HH/2152)

High Hedge Complaint

**Procedure:** Written Representations

**Start Date:** 08/04/2024

**Decision:** Dismissed

**Decision Date:** 07/10/2024

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[25 Botanic Road Southport PR9 7NG](#)

**Reference:** DC/2023/00374 (APP/M4320/W/24/3339834)

Removal of condition 7 and variation of conditions 8 and 9 pursuant to planning permission DC/2021/02153 approved on 22/03/2022 to allow the rear garden to be used by customers/children, increase the opening hours to include the occasional Sunday from 10.00am to 16.00pm and increase the number of children on the premises to 20.

**Procedure:** Written Representations

**Start Date:** 14/05/2024

**Decision:** Dismissed

**Decision Date:** 03/10/2024

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[Land To East Of A565 Formby Bypass Formby L37 7HN](#)

**Reference:** DC/2023/02092 (APP/M4320/Z/24/3341533)

Advertisement consent for the display of 2No. non-illuminated hoarding signs

**Procedure:** Householder Appeal

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

**Decision:** Allowed

**Decision Date:** 23/09/2024

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**New Appeals**

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[Land At 45 Ormskirk Road Aintree Liverpool L9 5AF](#)

**Reference:** DC/2024/00387 (APP/M4320/Z/24/3351599)

Advertisement Consent for the replacement of existing externally illuminated paper billboard with 2 No. LED digital billboards

**Procedure:** Householder Appeal

**Start Date:** 18/10/2024

**Decision:**

**Decision Date:**

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[Grass Verge Where Warren Road Meets Serpentine South Blundellsands](#)

**Reference:** DC/2024/00677 (APP/M4320/W/24/3350601)

Prior notification procedure for the installation of 1no. 20m Hutchinson street pole, with 6no. VF antennae and 1no. VF 300mm dish, 3no. cabinets and ancillary equipment.

**Procedure:** Written Representations

**Start Date:** 04/10/2024

**Decision:**

**Decision Date:**







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## Appeal Decision

Site visit made on 4 September 2024

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

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

**Decision date: 07 October 2024**

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**Appeal Ref: APP/HH/2152**

**Hedge at 43 Blundell Road, Hightown, Liverpool L38 9EF**

- The appeal is made under section 71(3) of the Anti-social Behaviour Act 2003 (the Act).
  - The appeal is made by Mrs Edna McDonald and Mrs Clare Hughes (the hedge owners), against a Remedial Notice (RN) issued by Sefton Metropolitan Borough Council.
  - The complaint, reference BLC/016354/01661453 is dated 7 February 2023.
  - The RN is dated 25 April 2023.
- 

### Decision

1. The appeal is dismissed, and the remedial notice is varied and corrected as set out in the attached corrected and varied remedial notice.

### Preliminary Matter

2. The plan attached to the RN shows the mature *Leylandii* trees (the hedge) at No 43, subject of this appeal as a blue line, which extends beyond the detached garage at 41 Blundell Road, Hightown, Liverpool L38 9EF (the complainant) to the rear boundary. I saw at my site visit that this was incorrect. The hedge extends beyond the single storey rear projection at No 43 but does not extend beyond the front elevation of the detached garage, I will therefore correct the RN by substituting a new plan showing the actual extent and position of the hedge. This would cause no injustice to either the hedge owner or the complainant. I will deal with this appeal on the basis of the corrected plan.
3. The initial action in the RN is set out as staged cuts to achieve a height of 3.07 metres (m) above ground level. While a RN can specify that a hedge is reduced in stages and suggest a timetable for the reduction, individual dates for staged cuts cannot be enforced. It is only the final action of staged cuts that can be enforced if the works are not completed by the end of the compliance period. I will therefore vary the initial action to remove reference to 12 months in paragraph (ii). I will also vary the compliance period to a single period of 16 months and add an informative relating to the suggested timings of the staged cuts. These variations would cause no injustice to either the hedge owner or the complainant.
4. The preventative action requires the height of the hedge to be reduced to the initial action height whenever the hedge reaches a height of 3.57m above ground level. It is for the hedge owner to decide how far they choose to reduce the hedge. The preventative action should therefore relate to a height that should not be exceeded and not specify the reduction amount. I will vary the preventative action to not exceeding 3.57m above ground level. This would cause no injustice to either the hedge owner or the complainant.

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## Main issues

5. The main issues of this appeal are: The effect of the hedge height upon the reasonable enjoyment of the occupiers of No 41 and whether the terms of the RN are appropriate and reasonable.

## Reasons

6. The RN relates to a hedge growing along the northern side boundary of No 43, which in turn is shared with No 41, forming their side boundary also. No 41 is located in a northerly direction from No 43, and both properties comprise detached houses. There is a small change in levels between both properties, with No 43 being sited on raised land by approximately 0.3m.
7. A high hedge is defined in the Act, as so much of a barrier to light or access as is formed wholly or predominantly by a line of two or more evergreen or semi-evergreen trees or shrubs and rises to a height of more than 2m above ground level. The Council visited No 41 on Friday 10 March 2023, the height of the hedge was measured at approximately 5.4m, with an effective length of 15m. Above a height of 2m in height there are no significant gaps and it forms a barrier to light and access. Consequently, the hedge subject of this appeal forms a high hedge.
8. Following receipt of the complaint the Council carried out a full appraisal based on the amenity value of the hedge and the reasonable enjoyment of No 41 by its occupiers. Loss of daylight and sunlight to a property that is caused by the height of a neighbour's hedge is normally deemed to be unreasonable if the hedge is growing above the Action Hedge Height (AHH). The Council assessed the impact of the hedge on sunlight and daylight obstruction by using the AHH as calculated according to the methodology formulated by the Building Research Establishment in Hedge Height and Light Loss, published by the Government in October 2005. This publication sets out the formula for calculating loss of light to habitable room windows and gardens.
9. The hedge owner does not dispute the Council's calculations, which includes the measurement for the garden depth and the compass direction of the hedge from the complainant's garden, which is south. Additionally, no other calculations have been provided to the contrary. The overall AHH for the garden of No 41 was calculated at 3.57m. At the site visit the hedge was measured and it was established that due to growth, the hedge is now taller than when the Council undertook its original site visit, in line with the expected growth rate.
10. I have taken into account the initial concerns of the complainant with regards to the reasonable enjoyment of No 41, particularly the rear garden. There is no objective method for assessing the impact of a hedge on the visual environment and thus it is a matter of judgement for the decision maker, based on the circumstances of the case. In the government publication High Hedges Complaints: Prevention and Cure (May 2005) it provides guidance on visual amenity, where paragraph's 5.84 and 5.87 are of particular relevance.
11. With this guidance in mind, I find the excessive height of the hedge unacceptably harms the visual amenity of the complainant's property due to the dominance of the hedge within the rear garden of No 41. However, I find that a reduction of the height and its maintenance at a height of 3.57m or below, as required by the RN, would result in a hedge that would not be overly

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dominant and thus would create reasonable visual amenity within the garden of No 41 for the complainant.

12. Overall, I consider in the light of the evidence before me that the initial action and preventative action as varied and amended are reasonable requirements, which will ensure the complainant's reasonable enjoyment of their home and garden, by ensuring that they do not experience unacceptable light obstruction and overbearing/visually intrusive effects from the hedge. Consequently, I take the view that the Council undertook a fair and reasonable assessment of the complaint. The requirements of the RN in terms of the heights for initial and preventative action are appropriate and reasonable.

### **Other Matters**

13. The Wildlife and Countryside Act 1981 (WCA) makes it illegal to disturb nesting birds or to damage or destroy their nests. The RN does not override the requirements of the WCA. I have therefore taken the potential impact on birds and other wildlife into account in my formal decision by ensuring that compliance with the notice can be outside the bird nesting season. Therefore, the compliance period is again 16 months from the operative date to allow for any seasonal considerations.
14. I note the concerns raised in relation to the requirements of the RN and the potential effect on the condition and aesthetic of the hedge, which includes a supporting letter from Deadwood Arborists. A RN cannot require works which would result in the removal of the hedge (section 69(3) of the Act). I have carefully considered these comments, taking into account the age of the hedge, the height of the hedge, the overall health and species that form the hedge and my own observations at the site visit. In this instance, I am confident that the hedge would be able to withstand the reductions set out in the RN with an ability to regenerate.
15. I am also satisfied that the terms of the RN would not result in unacceptable harm to the visual amenity value of the hedge or to the outlook of the hedge owner. I note the view from the hedge owners that the hedge provides privacy. However, given the other trees and vegetation in control of the hedge owners, the design and layout of their own garden and the overall distance and orientation between dwellings, I am satisfied that the RN would not result in an unacceptable loss of privacy for the hedge owners. Overall, I am satisfied that the RN requirements are the minimum necessary to address the harms identified to the complainant's reasonable enjoyment of their property.
16. I also note the concern of the hedge owners about the way that the Council handled the application, but this does not affect the merits of the case or form part of my consideration of this appeal.

### **Conclusion**

17. Whilst I acknowledge the concerns of the hedge owner, in each case a balance must be made. In this case, there are no matters of sufficient weight to relax the requirements of the RN. I have concluded that the hedge does have an adverse impact on the reasonable enjoyment of the complainant's property through light obstruction and that it harms visual amenity, and the requirements of the RN are sufficient to overcome these harms. I have also taken the potential impact on birds and/or other wildlife into account in my

# Agenda Item 6

APP/HH/2152

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formal decision. The compliance period of 16 months would enable the staged works to be carried out outside of the nesting season.

18. For the reasons given above, I dismiss the appeal and hereby specify that the operative date of the RN shall be the date of this decision. I will also need to issue a revised and corrected RN as set out above in the Preliminary Matters.

*W Johnson*

INSPECTOR

**IMPORTANT: this Notice affects the property at  
Hedge at 43 Blundell Road, Hightown, Liverpool L38 9EF**

**ANTI-SOCIAL BEHAVIOUR ACT 2003**

**PART 8: HIGH HEDGES**

**REMEDIAL NOTICE**

**CORRECTED AND VARIED BY Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

**Appointed by the Secretary of State for Housing, Communities and Local Government under Section 72(3) of the above Act.**

**1. THE NOTICE**

This revised notice is sent under Section 73 of the Anti-social Behaviour Act 2003 and pursuant to a complaint about the high hedge specified in this notice.

The notice is sent because it has been decided that the hedge in question is adversely affecting the reasonable enjoyment of the property at 41 Blundell Road, Hightown, Liverpool L38 9EF and that the action specified in this notice should be taken to remedy the adverse effect and to prevent its recurrence.

**2. THE HEDGE TO WHICH THE NOTICE RELATES**

The hedge comprises Leylandii trees situated adjacent to the northern boundary of 43 Blundell Road, Hightown, Liverpool L38 9EF, forming part of the shared side boundary with 41 Blundell Road, Hightown, Liverpool L38 9EF and marked with a blue line on the attached plan.

**3. WHAT ACTION MUST BE TAKEN IN RELATION TO THE HEDGE**

**3.1 Initial Action**

I require the following steps to be taken in relation to the hedge before the end of the period specified in paragraph 4 below:

The reduction of the height of the hedge identified on the attached plan with a blue line to a height not exceeding 3.07m above the level of the ground.

**3.2 Preventative Action**

Following the end of the period specified in paragraph 4 below, I require the following steps to be taken in relation to the hedge:

That the hedge, identified on the plan attached to this notice be maintained at a height not exceeding 3.57m above ground level.

**4. TIME FOR COMPLIANCE**

The initial action specified in in paragraph 3.1 to be complied with in full

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within 16 months of the date specified in paragraph 5 of this Notice.

## **5. WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on the date of decision.

## **6. FAILURE TO COMPLY WITH THE NOTICE**

Failure by any person who, at the relevant time is an owner or occupier of the land where the hedge specified in paragraph 2 above is situated:

- a. to take action in accordance with the Initial Action specified in paragraph 3.1 within the period specified in paragraph 4; or
- b. to take action in accordance with the Preventative Action specified in paragraph 3.2 by any time stated there,

may result in prosecution in the Magistrates Court with a fine of up to £1,000. The Council also has power, in these circumstances, to enter the land where the hedge is situated and carry out the specified works. The Council may use these powers whether or not a prosecution is brought. The costs of such works will be recovered from the owner or occupier of the land.

Signed: *W Johnson*

Dated: 07 October 2024

## **Informative**

It is recommended that:

The initial action specified in paragraph 3.1 is carried out in two stages. The first stage is a reduction in the height of the hedge to a height not exceeding 4.24m above ground level within 4 months of the date of this decision. The second stage is a reduction in the height of the hedge to a height not exceeding 3.07m above ground level within 16 months of the date of this decision.

All works should be carried out in accordance with good arboricultural practice, advice on which can be found in BS 3998: 'Recommendations for Tree Work'.

Skilled contractors are employed to carry out this specialist work. For a list of approved contractors to carry out works on trees and hedges, see the Arboricultural Association's website at [www.trees.org.uk](http://www.trees.org.uk) or contact 01242 522152.

In taking action specified in this Notice, special care should be taken not to disturb wild animals that are protected by the Wildlife and Countryside Act. This includes birds and bats that nest or roost in trees. The bird nesting season is generally considered to be 1 March to 31 August.



## Plan

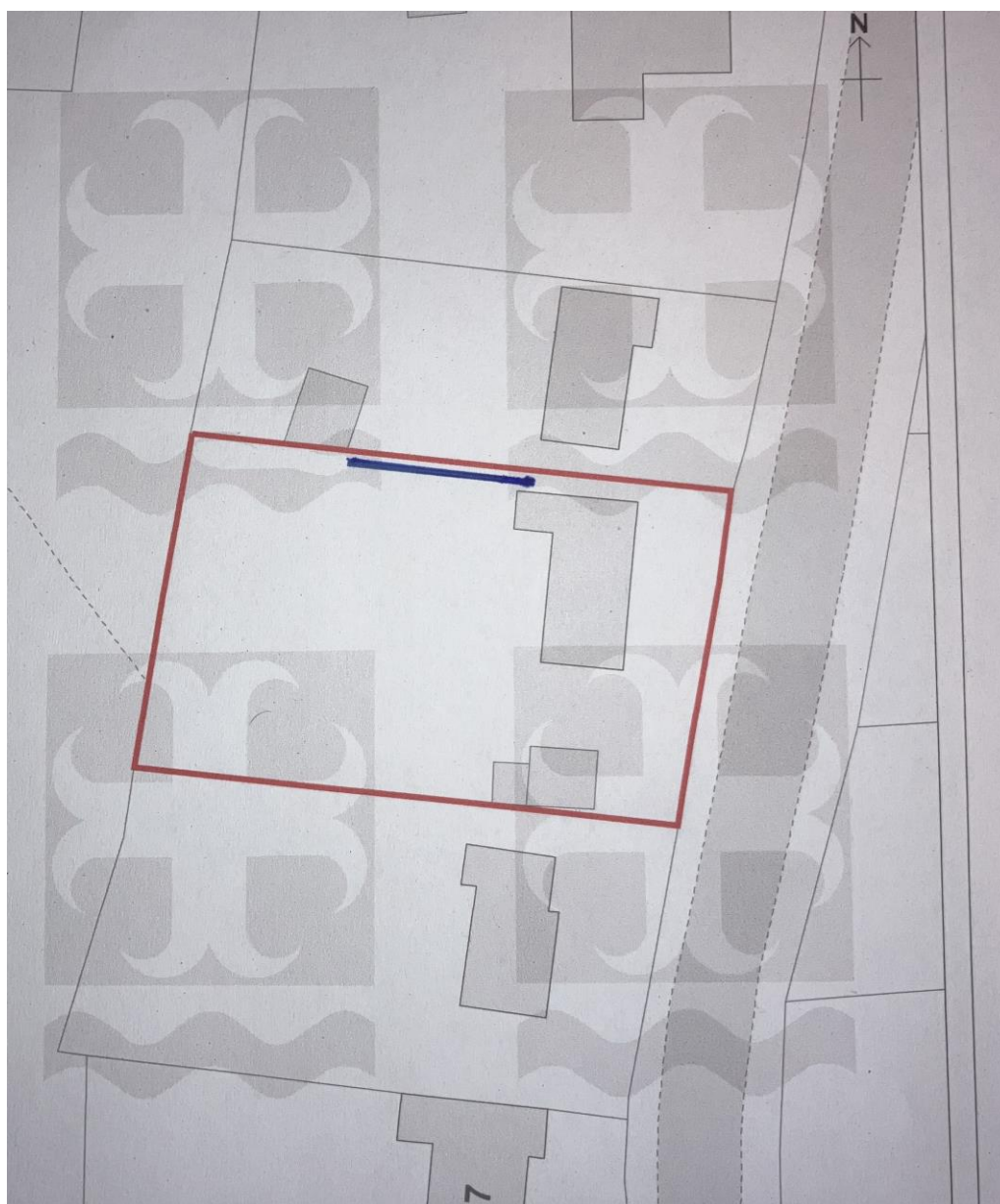
This is the plan referred to in my decision dated: 07 October 2024

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

**Hedge at: 43 Blundell Road, Hightown, Liverpool L38 9EF**

**Reference: APP/HH/2152**

Scale: Not to scale



## Appeal Decision

Site visit made on 17 September 2024

**by M Ollerenshaw BSc (Hons) MTPI MRTPI**

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

**Decision date: 3<sup>rd</sup> October 2024**

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**Appeal Ref: APP/M4320/W/24/3339834**

**25 Botanic Road, Southport, Sefton PR9 7NG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
  - The appeal is made by Miss Stephanie Brough of Little Sparks Southport Limited against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2023/00374 was approved on 1 September 2023 and planning permission was granted subject to conditions.
  - The development permitted is removal of condition 7 and variation of conditions 8 and 9 pursuant to planning permission DC/2021/02153 approved on 22/03/2022 to allow the rear garden to be used by customers/children, increase the opening hours to include the occasional Sunday from 10.00am to 16.00pm and increase the number of children on the premises to 20.
  - The condition in dispute is no. 4 which states that:  
"The rear garden must not be used at any time by customers/children associated with the business operation."
  - The reason given for the condition is:  
"To protect the living conditions of the neighbouring occupiers."
- 

### Decision

1. The appeal is dismissed.

### Background and Main Issue

2. Planning permission ref DC/2021/02153 is for the change of use of the property from a printers to a play based learning space/cafe (Class E). It is subject to several conditions, including condition 7 which states that the rear garden must not be used at any time by customers/children; condition 8 relating to the permitted opening times; and condition 9 restricting the maximum number of children. A Section 73 application to remove condition 7 and vary conditions 8 and 9 was granted in September 2023. Although the Council varied conditions 8 and 9 to extend the opening times and increase the maximum number of children permitted, it did not remove condition 7 but instead re-imposed it as condition 4. The appellant seeks to remove this condition so that the rear garden can be used by customers and children.
3. Therefore, the main issue is the effect that the removal of the condition would have on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance.

### Reasons

4. The appeal site is a two-storey property which operates as a play café. It includes a single storey rear extension beyond which there is a rear garden.



- The surrounding area is of mixed character with a range of different uses nearby, including dwellings, a takeaway, retail premises and a church.
5. The rear garden of the appeal property is bordered by neighbouring residential properties. It is particularly close to the rear elevations of 3 and 5 Churchgate which are separated from the site by a narrow pathway/patio areas. These properties both contain rear windows and doors facing directly towards the garden of the appeal property. The rear gardens of 21, 23 and 27 Botanic Road and 7 Churchgate are also within close proximity.
  6. During my site visit I observed that the rear garden of the appeal property is an enclosed and quiet space with the only discernible noise being vehicles passing along Botanic Road. While only a snapshot in time, I have no reason to suppose that this situation was not representative of the typical noise environment in the area.
  7. It is unlikely that the outdoor play space would be in constant use by the maximum number of children permitted at the premises. However, taking into account the confined nature of the rear garden and its proximity to the nearby properties and their gardens, the concentration of a potentially large number of children within this space, even if they were supervised, would cause significant harm to the neighbours' living conditions, by way of noise and disturbance. The impact would be exacerbated during warmer weather when the neighbours are more likely to have their windows open or spending time in their gardens. The effects would be particularly harmful to the occupiers of Nos 3 and 5 given their proximity and orientation towards the site.
  8. While the appellant's business model is to use the outdoor space for a limited number of sessions of specified duration each day, and the number of children would be restricted to a maximum of 15, this would still result in potential noise and disturbance from a large number of children for around three and a half hours per day in an otherwise relatively quiet environment.
  9. The appellant's noise report has assessed the external noise level in the garden and concludes that likely noise levels at neighbouring properties would be within the World Health Organisation (WHO) Guidelines for Community Noise. However, it is possible that children could at times be closer to No 3's window than the 5m distance quoted in the report, and the noise levels at this property may therefore have been underestimated. Moreover, the predicted noise level outside No 3 would still be around a level that would indicate 'moderate annoyance' according to the WHO guidelines.
  10. The findings of the noise report are predicated on the fences around the garden being maintained to a high standard, ensuring there are no gaps. The low fence to the rear of Nos 3 and 5 is unlikely to sufficiently mitigate noise. Raising the height of the fence on this boundary could provide noise mitigation but in turn would lead to an enclosing effect on the rear windows and patios of Nos 3 and 5, resulting in a loss of outlook to these properties. Consequently, the noise report does not provide sufficient clarity and robustness to enable me to conclude that the neighbours' living conditions would be protected.
  11. Accordingly, I find that the disputed condition is necessary to safeguard neighbouring occupiers' living conditions and ensure that the proposal complies with Policy EQ4 of A Local Plan for Sefton (2017) and paragraph 135

of the National Planning Policy Framework, which seek to protect the amenity of neighbouring occupiers including in respect of noise.

## **Other Matters**

12. The rear garden is currently overgrown and untidy, but it could be improved and maintained without being used for outdoor play. I sympathise with the appellant's aim to sustain and grow their business which appears to be valued by members of the local community with children. However, these matters do not outweigh the harm I have identified.
13. I note the appellant's reference to other businesses in the local area that use their outdoor spaces. However, I do not have the details of the planning history of these, or their specific contexts, and the appeal property has a particularly close relationship with surrounding dwellings. Accordingly, the other examples referred to do not justify the harm in this case.
14. While some neighbours are in support of the proposed use of the rear garden, others have submitted objections. Therefore, this is not a determinative matter in favour of the proposal.
15. Although I acknowledge the appellant's frustration with the Council's handling of the application, this is a procedural matter which does not impact on my assessment of the planning merits of the case.

## **Conclusion**

16. For the above reasons, I conclude that the removal of the condition is unacceptable and the appeal should, therefore, be dismissed.

*M Ollerenshaw*

INSPECTOR



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## Appeal Decision

Site visit made on 30 August 2024

**by R Jones BA(Hons) DipTP MRTPI**

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

**Decision date: 23 September 2024**

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**Appeal Ref: APP/M4320/Z/24/3341533**

**Land to east of A565 Formby Bypass, Formby L37 7HN**

- 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 Sefton and Formby Developments Limited against the decision of Sefton Council.
  - The application Ref is DC/2023/02092.
  - The advertisement proposed is v-board sign formed by two billboards.
- 

### Decision

1. The appeal is allowed and express consent is granted for the display of the v-board sign formed by two billboards at land to east of A565 Formby Bypass, Formby L37 7HN in accordance with the terms of the application, Ref DC/2023/02092. The consent is for 12 months from the date of this decision and is subject to the five standard conditions set out in Schedule 2 of the 2007 Regulations.

### Preliminary Matters

2. The Town and County Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the Regulations) require that advertisement appeal decisions are made only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework and the Planning Practice Guidance confirm this approach. The Council's Reason for Refusal refers to Policy EQ11 Advertisements of a Local Plan for Sefton (2017) (LP) and, although not determinative to my decision, I have taken this policy into account as a material consideration.
3. At the time of my site visit, the advertisements subject to this appeal were already in situ and the appellant has confirmed that consent is sought for a temporary 12 month period, as opposed to the five years set out in Regulation 14(7)(b). I have determined the appeal on this basis.

### Main Issue

4. The Council have not raised any objection to the proposals on public safety grounds and, from the evidence before me, I see no reason to disagree. Therefore, the main issue in this case is the effect of the advertisements on amenity.

## Reasons

5. The appeal site is to the east of the A565 Formby Bypass and comprises part of a hedgerow and landscape buffer which runs broadly parallel to the carriageway and adjoining footway. Two non-illuminated advertisement hoardings have been erected in a v-shaped arrangement, displaying commercial agency marketing details associated with wider land that is allocated for employment development in the LP. The advertisements are set on legs anchored to a concrete base (so around 2m from ground level) and are around 2.3m high by 5.8m wide.
6. I observed on my site visit that although the rear of houses to the west, on Bull Cop and Gardner Road, are glimpsed, this section of the Formby Bypass (between the Southport Road roundabout and the Altcar Road junction) is characterised principally by highway infrastructure. This includes the dual carriageway itself, central reservation, grass verges, directional road signage and street lighting columns, with the Bypass lined by mature trees and hedgerows. There are breaks and gaps in this landscape margin in places, but wider views of the surrounding area I found to be largely contained, or restricted. Because of this, I did not observe an open, flat lying rural landscape to be a defining visual characteristic or feature of the appeal site.
7. In this location, alongside a busy dual carriageway, views of the advertisements are fleeting, or momentary, from a moving vehicle. Pedestrians on the footway alongside the dual carriageway (particularly on the east side) would experience the advertisements for a longer period of time, but they are viewed at a high level (above, and behind, the hedgerow), alongside the highway infrastructure I describe, and are seen in the context of fast moving vehicles.
8. Despite their scale, notably their width and elevated position above the ground, and appearance of being of permanent construction, I found the advertisements were not unduly prominent in this location and assimilate well within the context of the Bypass. Accordingly, I conclude that the advertisements do not cause harm to the visual character of the roadside or harm the amenity of the area, particularly given they would be in situ only for a further 12 months.
9. I have taken into account LP Policy EQ11 which requires proposals for advertisements to respect the scale of and be sympathetic to their immediate surroundings and not dominate buildings, streetscenes and open areas. Given I have concluded that the advertisements do not harm amenity, they do not conflict with this policy.

## Conclusion

10. For the reasons set out above, I conclude that the appeal should be allowed, subject to the conditions set out in the Regulations.

*R. Jones*

INSPECTOR

**Planning Committee**

**Visiting Panel Schedule**

Date Monday 11<sup>th</sup> November 2024

Start: 10:00 am at BOOTLE TOWN HALL

Agenda Item	Time	Application Details	Ward
4A	10:30	<b>DC/2024/01545</b> 102 The Serpentine North, Blundellsands L23 6TJ	Blundellsands
5A	11:00	<b>DC/2024/01661</b> 205 Strand Road, Bootle L20 3HJ	Derby

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