

Public Document Pack



MEETING: PLANNING COMMITTEE

DATE: 11th December 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. Daniel McKee
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. Carla Thomas
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

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 3 - 6)

Minutes of the Meeting held on 13 November 2024.

4. Applications for Planning Permission - Approvals

Reports of the Chief Planning Officer

A DC/2024/01492 Land At Pendle Drive, Litherland (Pages 7 - 30)

B DC/2024/01644 The Cloisters, Halsall Lane, Formby (Pages 31 - 40)

C DC/2023/01277 Land To The East And West Of West Lane, Formby, (Pages 41 - 68)

5. Planning Appeals report (Pages 69 - 82)

Report of the Chief Planning Officer

6. Visiting Panel (Pages 83 - 84)

Report of the Chief Planning Officer

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

PLANNING COMMITTEE

MEETING HELD AT BOOTLE TOWN HALL ON 13 NOVEMBER 2024

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

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

ALSO PRESENT: Councillors Howard and Veidman

47. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Brough.

48. DECLARATIONS OF INTEREST

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

49. MINUTES OF THE PREVIOUS MEETING

RESOLVED:

That the Minutes of the meeting held on 16 October 2024 be confirmed as a correct record.

50. DC/2024/01545 - 102 THE SERPENTINE NORTH, BLUNDELLSANDS

The Committee considered the report of the Chief Planning Officer recommending that the above application for the erection of a new brick wall, fencing and sliding gate to the front of the dwellinghouse (Part Retrospective) be granted subject to the conditions and for the reasons stated or referred to in the report and late representations.

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.

The Chief Planning Officer reported at the meeting that as a result of comments regarding the dark colour treatment of the fencing the applicants had stated that the fence could be stained in a brown colour to

Agenda Item 3

PLANNING COMMITTEE - WEDNESDAY 13TH NOVEMBER, 2024

match other fences in the area. This could be included as part of the approved plans. Members discussed the proposal and expressed the view that the wall and fence as erected was considered acceptable and did not need to be clad with fencing (as proposed).

RESOLVED:

That a decision on the application be delegated to the Chief Planning Officer following discussion with the applicant to allow the plans to be amended to reflect the current appearance of the wall/fence as erected.

51. DC/2024/01661 - 205 STRAND ROAD, BOOTLE

The Committee considered the report of the Chief Planning Officer recommending that the above application for the change of use from a dwellinghouse (Class C3) to a children's home for up to 2 children (Class C2) be granted subject to the conditions, signing of a s.106 legal agreement, and for the reasons stated or referred to in the report and late representations.

Arising from the discussion members considered the appropriateness of such a development in this particular area and noted the comments of Merseyside Police regarding crime and antisocial behaviour which were set out in Late Representations.

RESOLVED:

That the recommendation be not approved and the application be refused for the reason that the introduction of such a proposal in an area of high crime would be detrimental to the future residents contrary to policy EQ1 within the Sefton Local Plan.

52. 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
Mrs. E. McDonald and Mrs C. Hughes	DC/2023/00203 (APP/HH/2152) - 43 Blundell Road Hightown Liverpool L38 9EF – Appeal against a remedial notice (High Hedge Complaint)	Dismissed 07/10/24
Miss. S. Brough	DC/2023/00374 (APP/M4320/W/24/3339834) - 25 Botanic Road Southport PR9 7NG - appeal against refusal by the Council to grant permission for the removal of condition 7 and variation of conditions	Dismissed 03/10/24

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

Sefton and Formby Developments Ltd.	DC/2023/02092 (APP/M4320/Z/24/3341533) - Land to the East of the A565 Formby Bypass Formby L37 7HN - appeal against refusal by the Council to grant advertisement consent for the display of 2 No. non-illuminated hoarding signs	Allowed 23/09/24
-------------------------------------	---	---------------------

RESOLVED:

That the report be noted.

53. VISITING PANEL SCHEDULE

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

Application No.	Site
DC/2024/01545	102 The Serpentine North, Blundellsands
DC/2024/01661	205 Strand Road, Bootle

RESOLVED:

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

This page is intentionally left blank

Agenda Item 4a

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

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SHYHH8NWL3Z00>

Site Location Plan



Agenda Item 4a

The Site

The application site is approximately 0.98 ha in area and is located on the corner of Pendle Drive and Gorse Lane (B5422) in Litherland. There are three buildings located on the site, all of which are vacant. The remainder of the site comprises overgrown landscaping, areas of derelict hardstanding and redundant fencing.

The surrounding area consists of low-rise residential housing with a small shopping parade at Bowland Drive, located to the north of the application site on the opposite side of Pendle Drive. The southern boundary of the site is bordered by open grassland with a public footpath, which is part of the Rimrose Valley Country Park.

History

There are no relevant previous planning permissions. The planning applications, which have been submitted are minor in nature and relate to site works associated with the current community/office use of the site.

The buildings on the site have been used by the Council, including Children's Services. The site is on the Council's Brownfield Land Register (ref: B0159).

Consultations

Highways Manager

The Highways Manager has commented on the proposed layout, car & cycle parking, proposed access, MASA, Travel Plan, and off-site highways works. The Highways Manager has recommended that until the traffic modelling for the signalised junctions is re-run and found satisfactory, approval of the application is not recommended at this stage. However, planning conditions are recommended in relation to off-site highways works, retention of visibility splays, cycle parking, a travel plan, construction traffic management plan and clearing mud off the highway.

Environmental Health Manager

Noise

No objections. Recommend conditions in relation to the details of the acoustic fencing and a lighting assessment.

Air Quality

No objections.

Contaminated Land

No objections. Recommended that a site investigation is required and other conditions.

Merseyside Environmental Advisory Service

Appropriate mitigation is required in relation to 10% Biodiversity Net Gain and loss of habitat for breeding birds and bats. Recommend conditions in relation to, a lighting scheme, reasonable avoidance measures for protected species during construction, landscape planting and management plan and biodiversity net gain plan.

Local Planning Manager

No objections. Loss of housing site is acceptable as sufficient flexibility in the Council's housing supply and the retail assessment finds that the application is consistent with the National Planning Policy Framework (NPPF) and Local Plan Policy ED2 'Retail, Leisure and Other Town Centre Uses'.

Canal And River Trust

No objections.

Tree Officer

No objections. Recommend a condition to ensure landscaping as set out in the approved plan is maintained for 5 years from completion of development.

Fire Officer

No objections. Comments have been provided, in relation to the requirement for access to fire appliances, which can be dealt with under different legislation and the proposal should comply with Section 55 of the County of Merseyside Act 1980.

Flooding & Drainage Manager

No objections. Drainage scheme should be included as a condition, so that it is constructed prior to occupation.

Neighbour Representations

A pre-application consultation exercise was carried out by Aldi with local residents in advance of the planning application being submitted in August 2024. The local planning authority sent out 31 letters to the surrounding residents, a site notice and press notice were also published on 2nd and 11th September 2024. A further site notice and press notice were also published to advertise that the proposal was a 'departure' from the local plan. There was separate communication with some Councillors and Sefton and Lunt Parish Councils, and a Statement of Community Involvement has been submitted with this application.

12 neighbour representations were received all of which are supportive of the proposal.

All statutory duties were fulfilled in terms of the consultation process.

Agenda Item 4a

Policy Context

The application site lies within an area allocated for housing site ref: MN2.38 'Land at Pendle Drive, Netherton' in the Sefton Local Plan which was adopted by the Council in April 2017.

Assessment of the Proposal

The application is for the erection of a foodstore (use class E), which is proposed with a Gross External Area (GEA) of 2,007 sqm, a Gross Internal Area (GIA) of 1,915 sqm and a net sales area of 1,356 sqm. A new vehicular access/egress is proposed from Pendle Drive and there are 123 car parking spaces proposed. The application also provides details of the servicing arrangements, hard and soft landscaping, and the demolition of the structures on the site. The main issues to consider are the principle of development, the impact on highway safety, the impact on adjoining occupiers, the design, the ecology requirements, drainage, contaminated land, mineral safeguarding, and employment skills.

1.0 Principle of Development

1.1 The application site is allocated for new housing site ref: MN2.38 'Land at Pendle Drive, Netherton' in the Sefton Local Plan. Whilst the proposal would result in a loss of a housing site (indicative capacity for 29 homes) it is considered that the loss of the site for 29 homes would be marginal.

1.2 The proposal is for a town centre use, in an out-of-centre location. In accordance with Local Plan Policy ED2 'Retail, Leisure and Other Town Centre Uses', the proposal required both a retail impact and sequential assessment. The applicant has submitted a retail assessment that covers both impact and sequential assessment. This has been reviewed by the Council's retained retail consultants. They have concluded that:

'In respect of the sequential approach to development, we have reviewed all the sites identified by the applicant and do not believe that any are both available and suitable to accommodate the application proposal, even allowing for appropriate flexibility. We are unaware of any other sequential sites offering realistic potential to accommodate the proposal and, as such, find that it accords with the requirements of paragraphs 91 and 92 of the NPPF. It also accords with the sequential test set out at Local Plan Policy ED2'

1.3 The adopted Local Plan identifies that an impact threshold of 500 sqm applies to the site. Given the size of the proposed store, this means there is a formal requirement to consider retail impact in determining the application. The assessment has concluded:

'In respect of the first impact test, we are unaware of any relevant in-centre investment which could be prejudiced by the application proposal.'

In terms of the second part of the impact test, the most notable in-centre trade diversion will occur from Netherton local centre (and its Iceland store most particularly). We have undertaken a revised 'sensitivity test' to understand the likely level of trade diversion from this store and have considered the current vitality and viability of Netherton. Based on this, we are satisfied that there would be no 'significant adverse' impact arising as a consequence of this development.'

1.4 The applicant identifies in paragraph 7.4 of their Planning & Retail Strategy that an adverse impact should be weighed in the planning balance in determining the application. The Council's retained consultants have commented that:

'On this basis, the Council can consider the diversion of trade away from Netherton local centre to be a negative impact capable of being weighed in the balance. Conversely, it is also relevant that the application site is relatively distant from defined centres and that the proposal will provide a moderate beneficial impact in supporting a discount foodstore in this part of the Litherland area (and thereby reducing the need to travel for some local residents). The improvement in customer choice is a positive contribution in accordance with paragraph 94 of the NPPF.'

1.5 Therefore, taking the above into account the application proposal accords with paragraphs, 91, 92 and 94 of the National Planning Policy Framework (NPPF) and Local Plan Policy ED2 'Retail, Leisure and Other Town Centre Uses'. The loss of a site allocated for housing is not considered to be critical to the Council's housing land supply. The proposal is therefore acceptable in principle subject to complying with other Local Plan Policies, Supplementary Planning Documents, and material considerations, which are discussed below.

2.0 Highway Safety

2.1 The proposal has been supported with a Transport Assessment and Technical Note, which has been assessed by the Highways Manager. The assessment, of the junction, has not been carried out based on the actual signal timing data, so the traffic modelling is required to be re-run. It is anticipated that there would be a significant increase in pedestrian crossing demand at the junctions, because of the proposed development, bearing in mind car ownership in the surrounding area is low. Also, consideration needs to be given to a new right-turn lane from Gorse Lane to Pendle Drive.

Transport Assessment

2.2 The proposed development and future performance of the junctions have been assessed in the Transport Assessment (TA). While the junctions studied appear to be operating well under the current conditions, as indicated above, the operation of Pendle Drive/Gorse Lane in capacity terms will be exacerbated by the proposed development in future, if additional measures are not implemented. Therefore, the Highways Manager recommends that the application implements an additional measure by way of introduction of Microprocessor Optimised Vehicle Actuation (MOVA) at Pendle Drive/Gorse Lane for improved control of the traffic light signals. This will provide

Agenda Item 4a

further information to inform the final design of the traffic light signals at the junction of Pendle Drive/Gorse Lane.

Site Access

2.3 The site is to be accessed and egressed from a new access to be formed to Pendle Drive at a location east of the existing access to the electricity substation. The access is provided to a width of 7.0m with 10m corner radii based on tracking of 16.5m long articulated vehicle stated to be the longest vehicle likely to frequently enter/egress the site. The required visibility splays of 2.4m x 43m can be achieved at the proposed site access.

2.4 The new access should include dropped kerbs and tactile paving on both sides, as stated in the TA, and the existing vehicle access will require reinstatement through a Section 278 agreement under the Highways Act 1980.

2.5 The proposed site plan also shows there would be a new 3.0m wide pedestrian access formed to Gorse Lane and Pendle Drive, which provides pedestrian links across and outside the site, therefore linking the site into the wider area.

Internal Layout

2.6 The proposed layout shows the proposed foodstore located on the southern half of the site with parking on the northern half. Servicing is proposed to the west of the store, where the vehicle tracking shows that there is adequate width for safe manoeuvring of articulated and refuse vehicles.

2.7 The proposed site layout plan also shows that the footway along the south side of Pendle Drive will be extended on both sides of the new vehicle access into the site with internal access roads/driving aisles provided to a width of 7.0m, which is in excess of the standard width of 6.0m specified by the Council. The layout incorporates informal zebra crossings to ensure safe pedestrian crossing of the internal access roads.

Parking

2.8 The proposed site layout shows the provision of 123 car parking spaces, comprising 103 regular spaces, 8 disabled spaces, 8 parent and child spaces and 4 electric vehicle charging spaces. Although, the overall parking provision is 4 less than the standard requirement, the Highways Manager confirms it is acceptable.

2.9 The proposal also includes 6 motorcycle bays, 7 covered short-stay bicycle parking spaces for customers and long stay bicycle parking spaces (located within the store's warehouse) for staff. There are two drop off spaces proposed for taxis shown to the front of the store.

Minimum Accessibility Standard Assessment

2.10 The Transport Assessment (TA) includes a Minimum Accessibility Standards Assessment (MASA), which is used to assess the extent to which a development is accessible by all modes of transport including walking, cycling and use of public transport and whether the development meets the requirements of the Council's Local Plan Policy EQ3 'Accessibility'.

2.11 There are footways on both sides of Gorsey Lane and Pendle Drive with street lighting and there are controlled pedestrian crossing points at Gorsey Lane/Pendle Drive. There are no Public Rights of Way (PROW) in the immediate vicinity of the site, but the unadopted footpath along the south boundary of the site is widely used as a link between Gorsey Lane and the Rimrose Country Park in the west.

2.12 The MASA submitted shows the target score for walking is met in terms of safety of pedestrian access in and out of the site, proximity of the site to housing, internal layout of the site and the availability of pedestrian facilities to ensure external connectivity.

2.13 Gorsey Lane is an on-road cycle lane/bus lane that connects other cycle routes in the area including The National Cycle Routes 810, Kirkdale Road West and Kirkdale Road North. The MASA shows the target score for cycling is met as cyclists would be able to safely turn in and out of the site within short distance of the junction of Gorsey Lane and Pendle Drive. The proposal also includes on-site cycle storage.

2.14 Gorsey Lane, Pendle Drive and Bowland Drive are bus routes and there are bus stops within acceptable walking distance to the west of the site on Pendle Drive and to the north of Bowland Drive. There are bus stops, within acceptable walking distance of the site in both directions on Gorsey Lane with frequent and regular services provided.

2.15 The MASA target for public transport has not been met. However, the amendment to the existing TRO to remove a section of the existing Bus Lane near the junction of Pendle Drive and Gorsey Lane will ensure that there is safe and suitable access for all users and would contribute towards achieving the required MASA target score in respect of Access by Public Transport. This measure required under TROs can be implemented and enforced under the Road Traffic Regulation Act 1984.

Travel Plan

2.16 The applicant has submitted a Framework Travel Plan (FTP) seeking to promote use of sustainable transport modes such as walking, cycling and public transport; and to manage any impacts of the proposed development on the highway network. The submitted FTP is acceptable but a full Travel Plan must be developed in the timescales outlined in the action plan in the FTP. It is recommended that the details of the full Travel Plan are included in the Section 106 legal agreement.

Agenda Item 4a

Off-site Highways Works

2.17 The applicant has agreed to implement off-site highway improvements requested by the Highways Manager including:

-Improvements to Pendle Drive/Gorse Lane and Gorse Lane/Edge Lane/Fleetwood Lane traffic signal junctions including installing Microprocessor Optimised Vehicle Actuation (MOVA) at Pendle Drive/Gorse Lane for improved control of the traffic light signals.

-Installation of new right turn lane on Gorse Lane at its junction with Pendle Drive including carriageway widening and alterations to existing footways on Gorse Lane adjacent to the signal junction.

2.18 It is recommended that the off-site highways improvements are included in a Section 106 legal agreement. The measures required under TROs can be implemented and enforced under the Road Traffic Regulation Act 1984, and therefore do not need to be included as conditions.

2.20 The Highways Manager has recommended that until the traffic modelling for the signalised junctions is re-run and found satisfactory, approval of the application is not recommended at this stage. This is a point of detail, and it is therefore, recommended that this issue is delegated to the Chief Planning Officer to finalise the highways requirements. This will include appropriate conditions to ensure that the proposal complies with Local Plan Policy EQ3 'Accessibility'.

3.0 Impact on Adjoining Occupiers

3.1 The site is surrounded by residential development to the west, north and east of the site. The proposed building is located more than the 21m minimum distance required, from all the surrounding residential properties and therefore the proposed building will not have a harmful impact on the living conditions of the surrounding residents.

3.2 The increase in traffic on site and on the adjoining junctions has been assessed as part of the Transport Assessment, which was submitted with this application and is discussed in the section above. The Highways Manager has recommended that a condition is included requiring that a Construction Traffic Management Plan is submitted prior to commencement, to ensure that the impact on the adjoining occupiers and road is kept to a minimum. Therefore, it is not considered that this proposal will have a harmful impact on the living conditions of the surrounding residents.

Air Quality

3.3 The proposal has been supported by an Air Quality Assessment. The Environmental Health Manager agrees that with the implementation of the mitigation measures identified in the report the impact of the construction/demolition phase dust emissions will not be significant.

3.4 A road traffic emissions assessment was also undertaken to consider the impact of potential road traffic generated by the proposal. The modelling assessment was undertaken, and the development is not predicted to exceed the relevant air quality objectives and the impact of the development with regard to air quality objectives is predicted to be negligible.

3.5 A revised Dust Management Plan (DMP) has been provided, which is considered acceptable, and it is recommended that it is included in the list of approved documents. The proposal therefore complies with Local Plan Policy EQ5 'Air Quality'.

Noise

3.6 The proposal has been supported by a Noise Impact Assessment (NIA). The Environmental Health Manager agrees with the methodology and conclusions. It is not anticipated that noise from deliveries, external plant and equipment or the car park would have an adverse impact on the living conditions of nearby residents. However, it is recommended that the final approved boundary treatment should show the close boarded fence intended as an acoustic screen to include a minimum surface density of 10kgm⁻². This can be secured by a condition. This will ensure that the residents have added protection from any potential noise sources from the building and within the site. With the inclusion of the condition the proposal complies with Local Plan Policy EQ4 'Pollution and Hazards'.

Lighting

3.7 It is recommended that a lighting assessment is provided; this can be secured by a condition. The assessment should include the maximum limits based on the Institute of Lighting Professionals Guidance Note GN01/21 The Reduction of Obtrusive Light (for an Environmental Zone 3).

3.8 In addition to the lighting assessment being required to ensure that surrounding residents are protected from any light pollution, the Merseyside Environmental Advisory Service (MEAS) comment that the habitats on site within the adjacent Local Wildlife Site may provide roosting, foraging, commuting habitat for bats as well as other wildlife. Lighting for the development may affect the use of these areas. It is recommended that a lighting scheme is designed so that it protects ecology and does not result in excessive light spill onto the habitats in line with NPPF (paragraph 186). The lighting assessment and details of a lighting scheme can be secured by conditions. With the inclusion of the recommended conditions the proposal complies with Local Plan Policy EQ4 'Pollution and Hazards' and NH2 'Nature'.

4.0 Design and Character of the Area

4.1 The proposal has been supported by a Design and Access Statement, which explains the development of the scheme. The proposal comprises a new foodstore with a Gross External Area (GEA) of 2,007 sqm, a Gross Internal Area (GIA) of 1,915 sqm and a net sales area of 1,356 sqm.

Agenda Item 4a

4.2 The proposed store is located to the south of the site and has active frontages from key vantage points, with the principal elevations facing both Gorsey Lane and Pendle Drive. There are pedestrian routes across the site, linking into Gorsey Lane and Pendle Drive. The proposed layout is designed to reflect ALDI's company philosophy and branding, which is a contemporary style.

4.3 The proposed store would comprise a combination of charcoal brickwork plinth, anthracite grey microrib cladding and metallic silver microrib cladding. The principal facades utilise metallic silver trapezoidal cladding as the primary material broken up with anthracite grey features, including expansive glazing and a canopy to highlight the store frontage.

4.4 The proposed landscaping scheme has retained the trees where possible and where trees have been lost then these are proposed to be replaced, along the edges of the site, along Gorsey Lane and Pendle Drive. The details of this are discussed below. The proposed boundary treatment includes the retention and improvement of the existing hoop top fence and the brick walls that run adjacent to Pendle Drive and Gorsey Lane. It is also proposed to include a close boarded timber fence, which would be 2.4m in height. The Environmental Health Manager has requested that this is an acoustic fence, which is discussed above. A 2.4m high palisade fence is proposed to enclose the plant at the rear of the proposed store.

4.5 The proposal is considered to be acceptable in design terms. The plans, which include details of the materials, can be listed in the condition referring to the approved plans and documents. Therefore, taking all the above into account, the proposal complies with Local Plan Policy EQ2 'Design'.

Energy Efficiency and Sustainability

4.6 The Design and Access Statement included details of the store's heating system. A heat recovery system using a refrigerant-to-air heat-exchanger is proposed, which would provide 100% of the heating for the store. The proposed store is to include the provision of solar panels to the roof structure. These proposals combined with the provision of the electric vehicle charging points complies with Local Plan Policy EQ7 'Energy Efficient and Low Carbon Design'.

5.0 Ecology Requirements

Ecology, Trees and Landscaping

5.1 To address Biodiversity Net Gain (BNG) the application has been accompanied by a BNG Metric, plus a proposed landscaping plan. The metric was updated to include identified urban trees and other neutral grassland. The BNG identified within the landscape plan is not considered to be a significant enhancement. There is the potential to provide some BNG within the site, which includes wildflower grasslands, however as this is 'non-significant' then a Section 106 legal agreement is not required to monitor this.

5.2 The Government guidance is that if it is non-significant it is not required to be managed and monitored for 30 years. However, the Merseyside Environmental Advisory Service (MEAS) have recommended a condition for a Landscape Planting Management Plan to be provided as there is some on site provision, even if it is small scale, and it is contributing towards meeting the BNG requirement. There will be a requirement to provide some off-site mitigation to achieve the required 10% increase in biodiversity levels.

5.3 The details of the off-site provision would need to be provided, once finalised. By including a condition for a Landscape Planting Management Plan to be submitted, for the on-site provision, the Council can ensure that any planting is appropriate. It would also require the applicant to provide evidence on how it would be managed as a habitat. This information would be required prior to commencement to be able to discharge the BNG condition, which is included on all decisions where 10% BNG is required.

5.4 The development will require the removal of three category B, seven category C and nine category U individual trees, with six groups of B and C trees also requiring removal. The majority of the trees being removed on the boundary of the site are category U trees, and a couple of category B and C trees are also proposed to be removed. The Council's Trees and Woodland Officer has confirmed that they would not meet the criteria for a Tree Preservation Order and the larger number of trees being removed are within the site, which have little public amenity.

5.5 The proposed landscape plan shows the number of trees being removed can be replaced with suitable species and this plan could be included as part of the approved documents list. It is recommended that a condition is included to ensure that if any trees or landscaping dies within 5 years as set out on the landscape plan then this is replaced in the next planting season.

5.6 MEAS have confirmed that the revised landscaping plan, which has amended the planting to be suitable for red squirrels, including the removal of the Hazel, within the planting scheme, is now acceptable.

Bats

5.7 The application has been supported by an ecology report, which MEAS have assessed and highlighted some limitations, as the entire southwest aspect and parts of the northern aspect on Building B2 were obscured from clear sight by dense bramble and mixed scrub. As a result, these aspects of the building were not subject to the bat survey. Since that assessment was carried out the bramble and scrub has been removed and a further inspection of the building has taken place. The findings include that the building has a tin roof, which is not insulated, which is not considered to be a suitable habitat for bats. Following the removal of the dense vegetation a vent was also revealed, however, given it was hidden by the dense vegetation then it is unlikely to have been used by bats.

Agenda Item 4a

5.8 To compensate for the loss of the habitat it is recommended that bat boxes are provided within the site. This can be secured by condition; therefore, the proposal complies with Local Plan Policy NH2 'Nature'.

6.0 Drainage Requirements

6.1 The application has been supported by a Sustainable Drainage Strategy (2nd August 2024) and a Sustainable Drainage Proforma. The drainage drawings were slightly amended, which included the omission of the pumping station. The Lead Local Flood Authority (LLFA) have not raised any objections.

6.2 It is recommended that a condition is added to ensure that the scheme is fully constructed prior to occupation in accordance with the approved details, phasing and timetable embodied within the Sustainable Drainage Strategy. The proposal complies with Local Plan Policy EQ8 'Flood Risk and Surface Water'.

7.0 Contaminated Land

7.1 The application has been supported by a Phase 1 Geo-environmental Assessment (Hydrock 1st August 2024) and a Phase 2 Ground Investigation (Hydrock 1st August 2024).

7.2 Various contaminants were identified on the site including from :

- Localised Made Ground deposits, associated with historic demolition works;

- a former tank in south of the site; and

- ground gases (carbon dioxide and methane) from localised Made Ground and recorded peat deposits.

7.3 The following contaminants were identified as potential off-site sources of contamination:

- Electricity sub-station to north-west-given the age of the substation constructed in the circa 1970s, it is plausible that this contains transformer oils with a polychlorinated biphenyl (PCB) content.

7.4 The site boundary indicated in the report is smaller than the proposed site plan submitted as part of the application and reference to the historic maps in the report, has missed key features that fall within the proposed site boundary. There is a potential source of localised contamination where a tank has been removed in the past. There is also a former well on the site, which would need to be located to determine whether it requires filling and/or capping. This would require further investigation, which could be secured by a condition.

7.5 The Phase 2 Ground Investigation also missed key features within the site. Due to the sampling location from the electricity substation, it cannot be concluded that there is no PCB contamination associated with the electricity substation and further investigation is required. Further investigation of the former tank on the site, will also be required.

7.6 The soil chemical analysis results do not identify elevated concentrations of contaminants of concern against the adopted generic assessment criteria (GAC) for commercial end use. In addition to this no asbestos fibres were detected within any of the samples of Made Ground or topsoil; therefore, the assessment concludes that the risk to human health from receptors is considered to be low.

7.7 The gas monitoring programme is still on-going. Once the ground gas monitoring has been completed the updated ground gas risk assessment will need to be submitted.

7.8 It is recommended that conditions are included for further investigations, the submission of a remediation strategy, a verification report and the reporting of any unexpected contamination if found. The proposal complies with Local Plan Policy EQ6 'Contaminated Land'.

8.0 Minerals Safeguarding

8.1 A section of the site is located in a Mineral Safeguarding Area. The application is supported by a Minerals Assessment (Hydrock, August 2024) in accordance with Local Plan Policy NH8 'Minerals'. This has concluded that the need for minerals below the site to be safeguarded or worked on in advance of the proposed development of the site is not warranted. This complies with the requirements of Local Plan Policy NH8 'Minerals'.

9.0 Employment Skills

9.1 The application has been supported by a Local Labour and Skills Plan. It states that there will be between 40-50 jobs created once the store is operating. There is also acknowledgement that the construction of the proposed store would require the services of local building trade contractors, which will provide jobs for local people.

9.2 To ensure that local job opportunities are secured, it is recommended that should permission be granted an Employment Skills and Development Plan be secured as part of a Section 106 legal agreement, which will ensure that the applicant works jointly and collaboratively with Sefton Council. This is to maximise the access for local people to job and skills opportunities, the provision of trainee places, the advertising of employment opportunities for local residents, ensure that the appointed contractor will aim to provide trainee places and ensure opportunities are provided for local individuals and local businesses created while the new development is being built as well as once the development is completed.

Agenda Item 4a

10.0 Section 106 Legal Agreement Requirements

10.1 A legal agreement will be required to ensure that an Employment Skills and Development Plan is provided, as well as a Travel Plan, which shall be provided and updated accordingly. It is also recommended that the recommended off-site highways work, are included in a legal agreement. A Section 278 agreement under the Highways Act 1980 shall also be required.

10.2 There is the potential to provide some Biodiversity Net Gain (BNG) within the site, which includes wildflower grasslands, which will require specific establishment and maintenance. There is a requirement for a detailed Management and Monitoring Plan to be submitted, which covers the management of this habitat within the site for 30 years to be provided, which can be included in a Section 106 agreement. There is also the requirement for BNG to be provided off-site, the details of this will need to be provided, as set out by the statutory BNG condition.

11.0 Planning Balance and Conclusion

11.1 The site has been allocated for housing purposes in the Sefton Local Plan (2017) and is listed on the Council's Brownfield Register. However, there have not been any applications submitted to develop the site for housing and it is not considered the loss of a potential housing site is critical to the Council's housing land supply

11.2 The proposal will bring economic benefits through job creation during construction and operational stages and bring development on a brownfield site, in a prominent location, which has been vacant/derelict for a while.

11.3 The development would have an impact on the highway network, however subject to a number of highways improvements, it is considered that the proposal would not cause harm to highway safety.

11.4 Overall the proposal complies with the Sefton Local Plan, and in the absence of any other material considerations, the application is recommended for approval subject to the conditions and the completion of a Section 106 legal agreement. However, as the Highways Manager has recommended that the application is not approved until the traffic modelling for the signalised junctions is re-run, it is recommended that this issue is delegated to the Chief Planning Officer to secure the necessary highways requirements.

12.0 Equality Act Consideration

12.1 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.

12.2 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 & request for delegated authority to the Chief Planning Officer to finalise detailed highways requirements specifically in relation to the Gorse Lane/Pendle Drive junction, and subject to a Section 106 legal agreement in relation to highways works, a Travel Plan and an Employment Skills and Development Plan.

Conditions

Time Limit for Commencement

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

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

Approved Plans

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

- Location Plan drawing no. 20033-THPM-XX-XX-DR-A 0100 rev A
- Proposed Site Plan drawing no. 20033-THPM-XX-XX-DR-A 0102 rev C
- Proposed Elevations drawing no. 20033-THPM-XX-XX-DR-A 0105 rev A
- Landscape Plan drawing no. 20033-SFW-XX-XX-DR-L 1001 rev P04
- Proposed Boundary Treatment drawing no. 20033-THPM-XX-XX-DR-A 0106 rev C
- Proposed Roller Shutter drawing no. 20033-THPM-XX-XX-DR-A 0107 rev A
- Construction Environmental Management Plan Including Demolition May 2024 Rev 1
- Dust Management Plan August 2024 Revision 2
- Transport Assessment including Framework Travel Plan

Agenda Item 4a

- Technical Note 4th October 2024 with drawing ref: 873-01/GA-01 rev A
- Air Quality Assessment July 2024 ref: 24426
- Noise Impact Assessment 29th July 2024 ref: 92446 Revision 01
- Flood Risk and Drainage Assessment ref: 33583-HYD-XX-XX-RP-C-0500 2nd August 2024
- Proposed Drainage Layout ref: 33583-HYD-ZZ-XX-DR 1000 Revision C02
- Sefton SuDs Pro-Forma August 2024
- Phase 1 Geo-Environmental Assessment ref: 33583-HYD-XX-XX-RP-DS-0001 1st August 2024
- Phase 2 Ground Investigation Report ref: 33583-HYD-XX-XX-RP-GE-0002 1st August 2024
- Ecology Report ref: 17070_R01a_LJ 13th September 2024
- BNG Metric 9th October 2024
- Arboricultural Impact Assessment August 2024
- Arboricultural Plan 1 of 3 drawing no. TCP/5113/Y/100
- Arboricultural Plan 2 of 3 drawing no. TCP/5113/Y/100
- Arboricultural Plan 3 of 3 drawing no. TCP/5113/Y/100
- Design and Access Statement 20033-DAS01C-Design and Access Statement 08/24

Reason: For the avoidance of doubt.

Before the Development is Commenced

3) No part of the development permitted by this consent shall be occupied until a Section 106 Legal Agreement is entered into which binds the whole site, in the form attached to this permission.

Reason: For the avoidance of doubt.

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

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

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

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

If the Preliminary Risk Assessment identifies there are potentially unacceptable risks a detailed scope of works for an intrusive investigation, including details of the risk assessment methodologies, must be prepared by a competent person (as defined in the National Planning Policy Framework, December 2023). The contents of the scheme and scope of works are subject to the approval in writing of the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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

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

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

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

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

Agenda Item 4a

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

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

9) Prior to the commencement of development, a Landscape Planting Management Plan, which includes the details of the maintenance schedule of the landscaping as set out on approved plan Landscape Plan drawing no. 20033-SFW-XX-XX-DR-L 1001 rev P04 shall be submitted and approved in writing by the local planning authority. The agreed scheme shall be implemented throughout the course of development.

Reason: In relation to the Biodiversity Net Gain requirements.

During Building Works

10) The provisions of the hereby approved Construction Environmental Management Plan Including Demolition May 2024 Rev 1 and the Dust Management Plan August 2024 Revision 2 shall be implemented in full during the period of construction.

Reason: To ensure the safety of highways users, in the interests of public health and safety and to safeguard the living conditions of neighbouring residents and occupiers during the course of construction.

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

Reason: To protect birds during their breeding season.

12) The following Reasonable Avoidance Measures (RAMs) shall be adhered to at all times during the construction phase:

- A pre-commencement check for badger and hedgehog terrestrial mammals.
- Existing vegetation on the site will be gradually cut and removed to encourage any amphibians/reptiles/hedgehog present to move away from protected areas.

- The working area, together with the storage areas, will be kept clear of debris; and any stored materials will be kept off ground on pallets so as to prevent amphibians/reptiles/terrestrial mammals from seeking shelter or protection within them.
- Any open excavations (e.g foundations/footings/service trenches etc) will be covered with plywood sheeting (or similar) at the end of each working day. The edges of these sheets will be covered with a thick layer of topsoil or similar) to prevent amphibians/reptiles from seeking shelter beneath them. Any excavation must be in-filled and made good to ground level with compacted stone or similar at the earliest opportunity, so as to remove any hazard to amphibians/reptiles/terrestrial mammals.
- Any exposed open pipe systems should be capped to prevent mammals gaining access.

Reason: To protect common amphibian and reptile species and terrestrial mammals.

13) Prior to the erection of any external lighting, a light mitigation strategy, including measures to reduce light spillage onto foraging habitats for bats, shall be submitted to and approved in writing by the local planning authority. The mitigation strategy shall be implemented in accordance with the approved details and thereafter retained in perpetuity.

Reason: To safeguard conservation of species/habitats.

14) In the event that previously unidentified contamination is found at any time when carrying out the approved development immediate contact must be made with the Local Planning Authority and works must cease in that area. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which shall be submitted to and approved in writing by the Local Planning Authority. Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be included in the verification report required by condition 19.

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.

Before the Development is Occupied

15) The development hereby permitted by this planning permission, including all components of the sustainable drainage system, shall be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy ref: 33583-HYD-XX-XX-RP-C-0500/Hydrock 2nd August 2024 and Proposed Drainage Layout ref: 33583-HYD-ZZ-XX-DR 1000 Revision C02. The approved scheme shall be fully constructed prior to occupation in accordance with the approved details, phasing and timetable embodied within the approved Sustainable Drainage Strategy.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site.

Agenda Item 4a

16) The foodstore shall not be brought into use until details of the full specification of any close-boarded fence intended as an acoustic screen, including a minimum surface density of 10kgm⁻² are submitted and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full and retained throughout the lifetime of the proposal.

Reason: To safeguard the living conditions of neighbouring residents and occupiers.

17) The foodstore should not be brought into use until details of the proposed external lighting scheme including measures to reduce light spill onto adjoining residents and foraging habitats for bats are submitted and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full and retained throughout the lifetime of the proposal.

Reason: To safeguard conservation of bats in the area.

18) The foodstore shall not be brought into use until a scheme and appropriately scaled plan identifying suitable locations on the site for the erection of bat roosting boxes/bat roosting bricks and bird nesting boxes together with a timetable for implementation have been submitted to and approved in writing by the local planning authority. The approved scheme shall be installed with the approved details and timetable and retained throughout the lifetime of the proposal.

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

19) The foodstore shall not be brought into use until the full details of the totem sign (location shown on proposed Site Plan drawing no. 20033-THPM-XX-XX-DR-A 0102 rev C) are submitted to and approved in writing by the local planning authority.

Reason: In the interests of visual amenity.

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

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

21) Before any part of the development hereby permitted is occupied/brought into use space shall be laid out within the site in accordance with drawing no. 20033-THPM-XX-XX-DR-A 0102 rev C for cars to be parked, for the loading and unloading areas, taxi drop off points 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 and servicing of vehicles in perpetuity thereafter.

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

22) 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.

Ongoing Conditions

23) Within the first planting/seeding season following the completion of the development, all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other of similar size and species.

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

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

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

25) The 2.4m x 43m visibility splays shown on plan no. 873-01/GA-01 rev B shall at all times be maintained free of any obstruction exceeding 1.0 metre in height in perpetuity.

Reason: To ensure adequate visibility for those entering and exiting the site and to safeguard other highway users at all times.

Informatives:

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

2) No development other than that required to be carried out as part of an approved scheme of remediation shall commence until conditions 5 and 6 above have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing, until condition 20 has been complied with in relation to that contamination. Contaminated land planning conditions must be implemented and completed in the order shown on the decision notice above.

Agenda Item 4a

3) A Traffic Regulation Order (TRO) for the introduction of No-Waiting at Anytime restrictions on both sides of Pendle Drive up to the entrance to the car park opposite the site on the north side and up to the entrance to the electricity sub-station on the south side is required. The restrictions are to extend into Bowland Drive on both sides for a distance of 10.0m from the edge of the carriageway of Pendle Drive and the existing TRO will require amending to remove a section of the existing bus lane near the junction of Pendle Drive and Gorse Lane. Please contact the Highways Development and Design Team on HDD.Enquiries@sefton.gov.uk for further information and to progress this process.

4) There is a requirement for the applicant to enter into a S278 Highways Act 1980 Legal Agreement to facilitate works to the adopted public highway. Please contact the Highways Development and Design Team on HDD.Enquiries@sefton.gov.uk for further information.

5) Biodiversity Net Gain (BNG).

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 11th December 2024

Subject: [DC/2024/01644](#)
[5 The Cloisters Halsall Lane Formby L37 3PX](#)

Proposal: Change of use from a cafe (Class E) to a hot food takeaway (Sui Generis) and alterations to the front and rear elevations

Applicant: Mr Stephen James Birchall **Agent:** Mr Jonathan Tinsley
Purely To Go Ltd J7 Architecture

Ward: Harington Ward **Type:** Full Application

Reason for Committee Determination: Called in by Councillor Harvey

Summary

The proposal seeks planning permission for the change of use from a cafe to a hot food takeaway and alterations to the front and rear elevations.

The main issues to consider are the principle of development, the impact on the living conditions of any nearby residential properties, the impact on the character and appearance of the area and the impact on highway safety.

It is concluded that the proposal would not result in any significant harm to the living conditions of neighbouring residential properties, would preserve the character and appearance of the area, and would not result in any significant harm to highway safety.

It is therefore considered that the proposal complies with local policies and is recommended for approval subject to conditions.

Recommendation: Approve with Conditions

Case Officer Stephen O'Reilly

Email planning.department@sefton.gov.uk

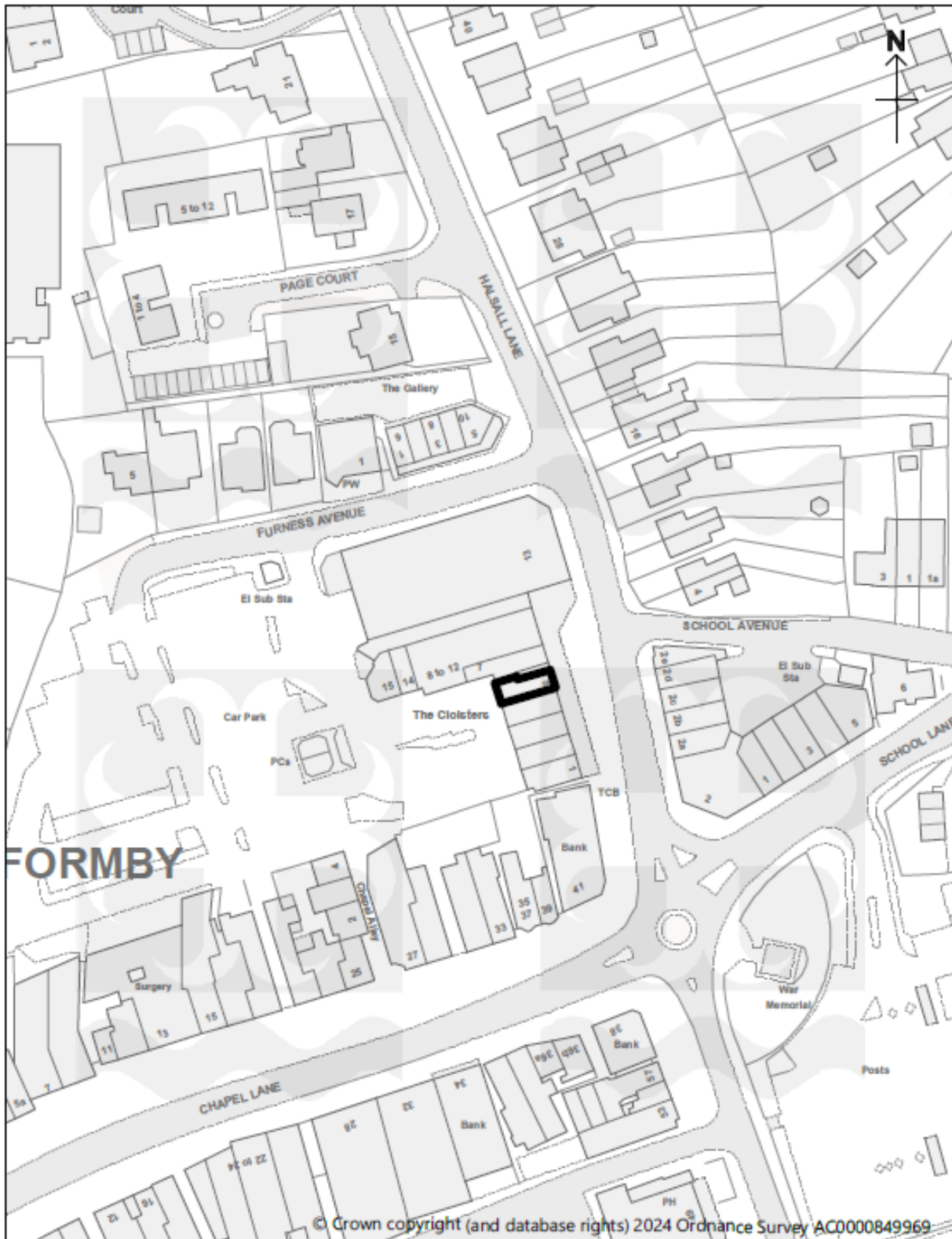
Telephone 0345 140 0845

Agenda Item 4b

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SJEBHTNWLCJ00>

Site Location Plan



Agenda Item 4b

The Site

The application relates to commercial premises within Formby district centre. The site is currently vacant and has previously been used as a cafe.

There are a number of commercial premises in the immediate vicinity of the application site, while to the north east of the site on the opposite side of Halsall Lane there are residential premises which sit outside of the district centre.

History

'Prior approval' was granted in October 2018 for the use of the premises as a cafe under application reference DC/2016/01321.

Consultations

Highways Manager

No objection

Environmental Manager

No objection subject to conditions

Neighbour Representations

Three letters of objection have been received, alongside a request from Councillor Harvey for the proposal to be determined at planning committee.

The issues raised in relation to the request for the application to be determined by planning committee include:

- Parking: takeaway customers may be inclined to park immediately outside the premises for collection, in breach of double yellow lines on both sides of the rear, no free parking nearby. This could also pose dangers to pedestrians crossing the road at this point.
- Nearby residents have also raised concerns about late-night noise (7 days a week until 10pm).
- Litter could also be a problem.

The issues raised in objection from neighbouring properties include:

- Position of takeaway with regard to parking. Halsall Lane and School Avenue always fully parked on. Double yellow lines on both sides of the road, despite this, often difficulty with cars parked, blocking pedestrians view and making crossing difficult.

- With takeaway, people are much more likely to do this as they are unlikely to pay a fee to park on the car park behind the building.
- Other takeaways in Formby have free parking space in front of them
- Concerned with regards to litter and noise at night and weekends
- More traffic/people will make situation worse
- Will encourage excessive people/youths loitering well beyond normal shop closing times

Policy Context

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

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

Agenda Item 4b

Assessment of the Proposal

1 Introduction

- 1.1 The proposal seeks planning permission for the change of use from a cafe (Class E) to a hot food takeaway ('Sui Generis' – i.e. a use of its own kind) and alterations to the front and rear elevations.
- 1.2 The application site is within a row of commercial premises within the Formby district centre.
- 1.3 The main issues to consider are the principle of development, the impact on the living conditions of any nearby residential properties, the impact on the character and appearance of the area and the impact on highway safety.

2 Principle

- 2.1 Given the site lies within Formby district centre, policy ED2 (Retail Leisure and Other Town Centre Uses) of the Local Plan is relevant.
- 2.2 This policy seeks to ensure that retail, leisure and other main town centre uses will be directed to the borough's existing centres and that planning permission will only be granted for development which is appropriate to the role and function of the centre.
- 2.3 The policy also states in part that within primary shopping areas, non-retail uses compatible with a town centre location will be permitted provided that the overall retail function of the centre would not be undermined; the use would make a positive contribution to the overall vitality and viability of the centre; and would not result in an unacceptable cluster of non-retail uses.
- 2.4 Policy EQ10 (Food and Drink) is also relevant and seeks to ensure that there would be no significant harm to local amenity, would not result in an unacceptable grouping of similar uses which could harm the character of the area, the vitality and viability of a centre or harm public health. The policy also seeks to ensure that ventilation and extraction systems do not significantly harm the external appearance of the building or street scene or in relation to the living conditions of neighbouring properties.
- 2.5 The previous use of the premises was a cafe, which falls outside the definition of a retail use. As such it is considered that the proposal would not undermine the overall retail function of the centre and would not result in an unacceptable cluster of non-retail units, given that this currently sits outside of the retail use class. The use would also not result in a grouping of similar uses.

- 2.6 The proposal would ensure that the premises would retain an active use and would not result in an empty unit, so this would make a positive contribution to the overall vitality and viability of the centre.
- 2.7 The proposal therefore complies with policy ED2 and parts of EQ10.
- 2.8 The impact on the living conditions of nearby residential properties and the character of the area are considered below.

3 Living Conditions

- 3.1 The proposed hours of operation for the premises are 12:00 - 22:00 Monday - Sundays including bank holidays. Given the location of the site within the district centre and the operating hours of neighbouring premises, including a restaurant facing the application site, it is considered that the operating hours would not result in any significant harm to the living conditions of neighbouring properties as a result of increased noise and disturbance.
- 3.2 Details of any extraction systems or plant and machinery required for the proposed use can be requested by condition to ensure that these are suitable. They would reduce the impact of noise and odour to nearby residential properties.
- 3.3 The upper floor of the premises are in commercial use and so there would be no harm to living conditions and no need for specific sound insulation.
- 3.4 The changes proposed to the elevations would not impact on the living conditions of neighbouring properties.
- 3.5 The proposal therefore complies with other criteria within policy EQ10.

4 Character

- 4.1 Policy ESD2 (High Quality Design) of the Formby and Little Altcar Neighbourhood Plan seeks to ensure that proposals make a positive contribution to the local character and demonstrate consideration of, amongst other things, scale, materials and access.
- 4.2 This is replicated in policy EQ2 (Design) of the Local Plan.
- 4.3 Policy WS5 (New Shop Fronts) of the Neighbourhood Plan also seeks to ensure shop fronts reflect the character of the area especially in respect of architecture of original buildings.
- 4.4 The proposal includes the installation of a new shop front which would have a central access to the premises. This would be constructed from similar materials to the existing shop front and also from materials which are typical of the local area.

Agenda Item 4b

- 4.5 The details of the ventilation and extraction systems will be covered by condition which can ensure these are sited on the building so as to not cause any significant harm to the character and appearance of the area.
- 4.6 The proposal therefore complies with the policies listed in paragraphs 4.1 – 4.3 above as well as policy EQ10.

5 Highway Safety

- 5.1 Policy EQ3 (Accessibility) of the Local Plan seeks to ensure that proposals do not result in any highway safety issues.
- 5.2 The proposal lies within the Formby district centre. Premises of this size would normally be required to provide 7 off-street parking spaces in line with the Council's guidance. However, this is not possible at the location.
- 5.3 The Cloisters however, does benefit from a large pay and display car park to the rear, which is accessed via a walkway through to/from Halsall Lane. Given that the site is located within the district centre it is considered that the premises are well served by public transport and cycle storage is available outside the premises.
- 5.4 Halsall Lane is also protected by double-yellow lines, which will prevent on street parking there. Concerns have been raised in relation to customers parking on the double yellow lines when visiting the premises. However, this is not a reason to refuse the application. Other legislations can manage potential unlawful parking in the area.
- 5.5 It is considered that the proposal would not result in any highway safety issues and so complies with policy EQ3.

6 Other Matters

- 6.1 Concerns have been raised regarding litter and youths gathering outside of the premises. The site lies within the Formby district centre where late night uses are acceptable. It is considered that the use of the premises would not generate a significant increase in customers which would result in any major increase in terms of noise to the local area.
- 6.2 The applicant has demonstrated that the premises will have external bin storage to the rear, in addition to bins located inside the premises for customers to dispose of any waste. There are also street bins located close to the premises.

7 Planning Balance and Conclusion

- 7.1 The proposal would not result in any significant harm to the living conditions of neighbouring residential properties and would preserve the character and appearance of the area.
- 7.2 The proposal would not result in any significant harm in terms of highway safety given the existing car parking to the rear and the existing double yellow lines to the front of the premises.
- 7.3 It is therefore considered that the proposal complies with both the Sefton Local Plan and the Formby and Little Altcar Neighbourhood Plan and is recommended for approval subject to conditions.

Equality Act Consideration

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

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

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

Recommendation - Approve with Conditions

Time Limit for Commencement

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

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

Approved Plans

Agenda Item 4b

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

Location Plan

Existing and Proposed Plans and Elevations - J7_0189_(20)_A001 Revision P01

Reason: For the avoidance of doubt.

Before the Development is Occupied

- 3) Prior to the occupation of the hereby approved development a suitable scheme of odour, grease and smoke control for kitchen extraction system shall be submitted to and agreed in writing with the local planning authority. The approved scheme must be installed before the business becomes operational and retained as such thereafter.

Reason: To protect the living conditions of nearby residential properties from odour and smoke.

- 4) Prior to the occupation of the hereby approved development a suitable scheme of noise control for all plant and equipment shall be submitted to and agreed in writing with the local planning authority. The approved scheme must be installed before the plant becomes operational and retained as such thereafter.

Reason: To protect the living conditions of nearby residential properties from noise.

Ongoing Conditions

- 5) The premises shall not be open for business outside the hours of 12:00 - 22:00 Monday - Sunday including Bank Holidays

Reason: In the interest of amenity of neighbouring properties

Informatives

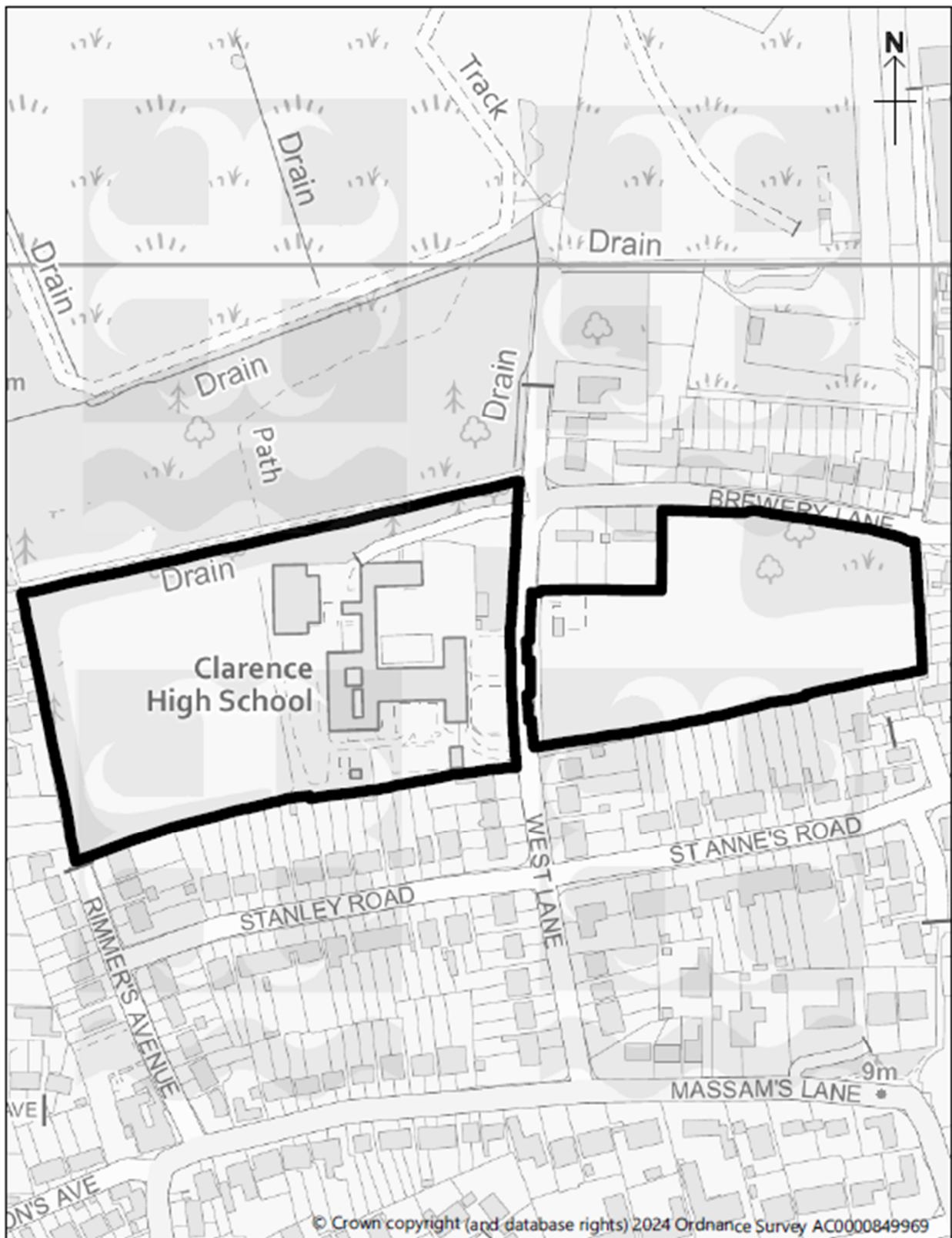
- 1) The selection and performance of odour control measures for kitchen extraction systems must be supported by an appropriate odour risk assessment. Guidance can be found in documents such as Defra (January 2005) Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (withdrawn) or the reissues EMAQ (2018) updated Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems.
- 2) New plant should be assessed in accordance with the methods in current guidance BS4142:2014. The Environmental Health team recommends that the excess over background should not exceed the representative background (L90).

Agenda Item 4c

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RY1TRONWHDY00>

Site Location Plan



Agenda Item 4c

The Site

The application site comprises two parcels of land that lie to the east and west of West Lane, Formby. The eastern parcel is allocated for housing within the Local Plan - Local Plan Policy, MN2, site reference MN2.13 Land at West Lane, Formby. The western parcel is designated as an education and care institution in the urban area (Local Plan policy HC7). The eastern parcel is bordered on all sides by a mix of residential properties with the land designated as a primarily residential area as is the western parcel, save for the north to this parcel where there is designated Green Belt and beyond that the Freshfield Dune Heath countryside recreation area and Local Wildlife Site.

The eastern parcel of land is largely free from built form, except for a small single building adjacent to West Lane. It contains a number of mature trees including those protected by a Tree Preservation Order, TPO 193, with trees to the boundary with properties on St Anne's Road to the south, Brewery Lane to the north, a footpath linking Brewery Lane and St Anne's Close to the east as well as an 'L' shaped grouping to the north east corner adjacent.

The western parcel contains a mixture of long standing buildings comprising the former Clarence High School that closed in August 2018. The buildings range from single-storey to three-storey in height, predominantly finished in facing brick with slate or concrete roof tiles with an open frontage to West Lane (with fencing and enclosures set well back from the highway). The buildings are largely concentrated to one half of the site adjacent to West Lane, with a grassed area positioned to the rear of the western parcel providing playing fields, with mature trees to the boundary edges.

Both parcels of land retain mature trees adjacent to West Lane that contribute to a wooded corridor when approaching from the south.

History

History applicable to former uses of the land but none of the previous application are relevant to residential development to either parcel of land.

Consultations

Formby Parish Council: Query the applicant's comments that the impact on highway safety will be negligible, that a nearby roundabout (at Green Lane/Church Road) will become much busier and require an update. Also raise concerns that the number of trees to be planted is less than that to be removed, thereby resulting in a net loss of tree cover

Environmental Health: No objection subject to conditions.

Highways Development Design: No objection subject to conditions.

Flooding & Drainage: No objection subject to conditions.

United Utilities: No objection subject to conditions.

Tree Officer: No objection subject to conditions.

Merseyside Environmental Advisory Service: Sought further information in respect of details of bat surveying, which will be reported on as late representations.

Natural England: Further information sought on mitigation measures.

Contaminated Land Team: No objection subject to conditions

Network Rail: Query as to the impacts on level crossing.

Neighbour Representations

Representations have been received from properties on Stanley Road, St Peter's Avenue, Hawksworth Drive, Castle Drive, Brewery Lane, Kenton Close, St Anne's Road, Cable Street, Argarmeols Road, West Lane, Rimmer's Avenue, Gores Lane, Richardson Road, Rosemary Lane (all Formby), and Lawson Street (Southport) objecting to the proposal.

The representations above raise the following matters:

Principle of Development

- Query the legal right to build on land to rear of neighbouring properties
- Further loss of green space in Formby should be opposed
- Too many houses already being built in Formby
- Houses not being sold on other housing developments in Formby so no need for this proposal
- Would have preferred the re-use and refurbishment of the existing buildings on site
- Query as to who will manage open space areas

Impact on the Character of the Area

- Proposal represents overdevelopment showing no consideration of the wider environment
- Loss of trees unacceptable, contrary to the character of the area and contrary to Local Plan policy NH2.
- Scale of proposed development is too big for this quiet area of Formby
- The two flat blocks adjacent to Freshfield Duneheath will not blend in to the local landscape

Impact on Highway Safety and Amenity

- Existing roads cannot cope with amount of traffic
- Congestion at entry/exit points into/out of Formby
- Concern as to increasing congestion at the level crossing on Victoria Road
- Demolition and construction traffic could give rise to harm given the size of residential roads and proximity of schools
- Impact of construction traffic could be detrimental to access and use of an extremely busy riding stables accessed from Brewery Lane

Agenda Item 4c

- Construction traffic/vehicles could negatively impact on access for emergency vehicles to neighbouring roads/properties
- Existing bottlenecks/issues arising from on-road parking through people using nearby heathland, which would be made worse

Impact on Neighbouring Living Conditions

- Noise pollution and general pollution (during construction and afterwards) that will have a detrimental effect on the health of current neighbours
- Concern as to the impacts on neighbours arising from asbestos during demolition
- Loss of sunlight to neighbouring properties as a result of new housing
- Facing windows to existing neighbours should be obscurely glazed
- Secure fencing should be provided between the proposed dwellings and neighbours
- Construction hours should be limited
- Detrimental impact upon the enjoyment and use of nearby riding stables
- Concerns about use of sports pavilion, particularly it containing a bar

Flooding and Flood Risk

- Removal of grassland and increased hardstanding will have an adverse impact on land drains that have already contributed to flooding within the area
- Proposal is contrary to Neighbourhood Plan policies as it will reduce the ability of the area to alleviate flooding

Ecology

- Detrimental impact on an area of red squirrel habitat
- Incomplete and insufficient ecology surveying, with objectors querying surveys claiming absence of red squirrel within the site as well as querying detailed technical matters
- Land within and to neighbouring sites provides habitat for many protected species (amphibians, reptiles, bats, birds) and concerns as to detrimental impacts arising from the proposal
- Unacceptable loss of trees, particularly protected trees
- Loss of trees will detrimentally impact bats and birds
- Trees bordering the development should be left untouched due to loss of habitat for species

Impact on Existing Infrastructure

- No consideration given to increase school places
- No consideration given to increasing medical capacity in the area (GPs, dentists)
- Unknown as to how the installation of EV points would impact the local power network
- Insufficient budget supermarkets in the area to support the development
- Insufficient leisure facilities to support further dwellings and residents

A representation was received from the Merseyside and West Lancashire Bat Group raising concerns as to the extent and robustness of ecological surveying.

A representation was received from the Lancashire, Manchester & North Merseyside Wildlife Trust who objected to the proposal due to concerns about impacts on the Freshfield Dune Heath SSSI due to increased footfall and issues associated with that (e.g. increase in disturbance from dogs and predation from cats). Also concerned about the hydrology impacts on the heath if the proposal increased the extent of standing water currently experienced there.

Representations have been received from properties on St Anne's Road, Brewery Lane that query elements of the proposal (such as impacts on construction traffic, impact on ecology through tree loss) and express concern that the retention of trees may cause loss of sunlight for future occupiers of the dwellings, particularly those bordering St Anne's Road but are otherwise supportive of the proposal putting the land to good use, in one representation, and at least do not oppose the development so long as it is not at the expense of protected species, in another representation.

Policy Context

The application site lies within an area designated as a Housing Allocation (eastern parcel) and an Education and Care Institution in the Urban Area (western parcel) in the Sefton Local Plan which was adopted by the Council in April 2017.

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

Agenda Item 4c

Assessment of the Proposal

1. Introduction

- 1.1. This application is seeking consent for the erection of 89 dwellings (comprising a mix of dwellinghouses and self-contained flats), supported living accommodation, a new sports pavilion and associated access and landscaping works to two parcels of land either side of West Lane.
- 1.2. The main issues to consider are the principle of development, the impact on the character of the area, the impact on the living conditions of neighbouring properties, the impacts on highway safety and amenity, the impact on protected and non-protected trees, the impacts on flooding & drainage and the impacts on ecology.

2. Principle of Development

- 2.1. Both sites fall within the Formby and Little Altcar Settlement Boundary as shown within the Formby and Little Altcar Neighbourhood Plan ("the NP") for which NP policy GP1 "Spatial Strategy" is applicable. This policy directs housing development to be within the settlement boundary so as to contain the spread of the town, and as such promotes the infilling of the two parcels of land up to that boundary. As the application site lies within the settlement boundary then the principle of housing development is supported by the NP, subject to other policy considerations.
- 2.2. The 2017 Sefton Local Plan ("the LP") has allocated the eastern parcel of the site for housing development with an indicative capacity of 40 dwellings (site reference MN2.13) to which LP policy MN2 "Housing, employment and mixed use allocations" is directly applicable. The principle of development for this allocated site is therefore established, subject to other policy considerations.
- 2.3. The western parcel is designated as an education institution as prescribed within LP policy HC7 "Education and Care Institutions". For sites formerly in use as schools, colleges or care institutions, as is the case here, this policy permits development for alternative use(s) that is compatible with the surrounding area where appropriate evidence is provided that the use and its ancillary facilities are surplus to recreational requirements. The proposal is seeking consent for a sports pavilion to enhance and continue the recreational use of the playing fields to the rear of the site while the wider area is residential in character.
- 2.4. Therefore, and subject to other policy considerations, the redevelopment of this site for housing and formal recreation development is acceptable in principle.

3. Character of the Area

- 3.1. Local Plan policy EQ2 'Design' only permits development where it responds positively to the character, local distinctiveness and form of its surroundings. This approach is also taken within Neighbourhood Plan policy ESD2 'High Quality Design'.
- 3.2. There is no consistent form or style of dwellinghouses to the neighbouring roads of West Lane, Brewery Lane, Stanley Road, St Anne's Road and St Anne's Close. The houses vary in scale, layout, form and finishing materials to external elevations and roofs. Front boundary treatments also vary (low level brick, timber, planted, mixed with occasional higher natural or built boundaries) but there are common features in respect of the set back from the highway and the retention of soft landscape front garden areas with off-street car parking areas (with some exceptions with hardstanding to the entirety of the front).
- 3.3. This application proposes a variety of dwelling house forms that draw on materials and architectural features seen to properties within nearby roads and Formby as a whole, and following amendments to the layout from when it was submitted, the run of dwellings fronting West Lane to the eastern parcel will face the road, reflecting existing residential layouts. There are two flat blocks proposed to the western parcel, which will be set back from the road and will not be readily visible from longer views along West Lane. Their scale is in keeping with that of the existing buildings to be demolished and as such the provision of buildings above 2.5 storeys is justified to this location and accords with Neighbourhood Plan policy H5 "Storey Height".
- 3.4. The set back of properties from the West Lane frontage ensures that a key characteristic of the current sites, mature trees prominent to the road with buildings making a lesser contribution, is retained thereby continuing the wooded corridor when approached from the south. Concern about the incursion of development particularly to the line of trees to the south of Brewery Lane was a cause of concern for the proposal as initially submitted due to the detrimental impacts this may have had on the prevailing character. So as to overcome this, the amended plans have removed a vehicle access serving the care facility in the eastern parcel so it is accessed, as the rest of this parcel is, from West Lane. This will reduce the extent of tree loss required along this frontage, save for that required to provide for appropriate drainage, to the betterment of the prevailing character of the area.
- 3.5. Within the development site the layout of properties is consistent with that seen elsewhere with dwellings facing access roads, and with car parking to the front or side. The rear garden depths and sizes are generally smaller than those seen to existing neighbouring dwellings but this will not be readily appreciated from public vantage points.
- 3.6. The use of soft landscaped areas to the front of properties plus areas of incidental open space within both parcels retains the sense of openness of both areas at present, while at the same time delivering a development that is a combined 23 dwellings per hectare, which reflects the density of prevailing development in the area.

Agenda Item 4c

- 3.7. So as to ensure a viable development and to have regard to the indicative capacity of dwellings as included within the housing allocation a large number of protected trees will be removed from the eastern parcel of the site. The key area to be lost forms an 'L' shape from the footpath to the east of the site and leading up to Brewery Lane. Amendments to the layout resulted in a larger area of open space being left to allow good quality and healthy trees to be retained, noting that disease is affecting a number of trees within the existing group. The retention of key trees, plus the requirement of re-planting of good sized and quality trees within this area, and within the site as a whole, will retain the general character of the area over the long-term.
- 3.8. In respect of the proposed sports pavilion, this is a single-storey building of a good appearance, which will delineate between the residential and leisure uses.
- 3.9. In view of the above it is considered that the proposal has had regard to local character and will provide for a development that contributes positively to this character. The proposal is therefore acceptable on this matter.

4. Living Conditions

Future Occupiers

- 4.1. Good outlook is to be provided to all habitable room windows, while the garden areas to individual dwellings and the communal areas serving the flats will meet or exceed the Council's minimum requirements. Similarly, the interface distances between habitable room windows or habitable room windows to blank elevations of proposed dwellings will ensure no unacceptable harm is caused through overlooking or providing a poor outlook.
- 4.2. The submitted Noise Impact Assessment recommended that acoustically treated boundary treatment was required for the side and rear boundaries of two dwellings, Plots 75 & 89, lying adjacent to the special needs housing in the western parcel. In addition to this, there will also be a requirement in the eastern parcel for similar treatments to the boundaries of Plots 23, 24, 26, 27, 28 & 31 that lie adjacent to the parking area for the Nugent Accommodation building and the parking area serving plots 32-37. These matters could be addressed through a condition attached to any approval.
- 4.3. The use of the pavilion and the associated car parking area could give rise to harm to neighbouring residential properties through noise and general disturbance if it was to have an unfettered use and so it is considered appropriate to limit the hours it can be used to 07:00 - 22:00. A condition could be attached to any approval to restrict the hours of use.
- 4.4. Subject to the above matters being secured it is considered that the proposal is acceptable on this point.

Neighbouring Properties

- 4.5. As scaled from the submitted plans sufficient distance will be retained from habitable room windows within the proposed dwellings and neighbouring gardens and habitable room windows so as to ensure that there will be no unacceptable impacts on the living conditions of neighbouring properties through overlooking.
- 4.6. Being positioned north of existing neighbours to West Lane, St Anne's Road and St Anne's Close will remove the potential for harm through overshadowing to these properties. There is unlikely to be any unacceptable overshadowing impacts to neighbours on Kenton Close, positioned to the east of the proposed development, due to distance between properties aided by the existing footpath, as well as the removal of dwellings to the northeast corner (to retain more trees). The distances between properties on the south side and north side of Brewery Lane and those within the proposal is also likely to be sufficient to avoid unacceptable impacts through overshadowing.
- 4.7. It is likely that there will be short-term negative noise impacts and general disturbance arising from the implementation of any approval but these could be mitigated to a degree through measures to be agreed within Construction Environmental and Construction Traffic Management Plans, which could be secured through conditions attached to any approval.
- 4.8. Subject to conditions it is therefore considered that the proposal will not cause unacceptable impacts on the living conditions of current or future occupiers of neighbouring properties.

5. Highway Safety and Amenity

- 5.1. As originally submitted while the Council's Highways Manager considered that the principle of development was accepted he had concerns about the extent of adequate pedestrian facilities to the supported living unit, vehicle manoeuvring within the sports facility and lack of accessibility of the eastern parcel to existing local amenities. The amended scheme has sufficiently overcome these concerns.
- 5.2. In addition to detailed site layout matters the Highways Manager also sought updates of accident analysis data within the local area. Upon review of this the Highways Manager agreed within the findings that there has been a low occurrence of accidents near the site and that there are no underlying safety concerns within the local highway network.
- 5.3. It is noted that objectors have raised concerns about existing capacity of the highway and wider traffic and transport infrastructure concerns but these have not been sufficiently demonstrated to a level that would outweigh the submitted information and comments made by the Highways Manager.

Agenda Item 4c

- 5.4. Network Rail have queried the potential impact on a nearby level crossing (at Freshfield Station) but the most direct vehicle route from the site to the level crossing is some 950m. It is not considered, similarly to the absence of issue with regards to junction capacity, that this development by itself or in combination with other developments will result in material changes to this level crossing.
- 5.5. The proposal complies with Local Plan policy EQ3 "Accessibility" and is acceptable in this regard.

6. Flooding & Drainage

- 6.1. As originally submitted the Council's Flooding & Drainage Manager objected to the proposal as the surface water discharge of the western parcel to an existing sewer was to be at a rate of 29.85l/s, while that for the eastern parcel was at a rate of 31.43l/s both of which were considered to be too great and contrary to the aims of local and national policies on flood risk and management. A "greenfield flow rate" (5l/s discharge rate) was sought with a revised drainage strategy to achieve this.
- 6.2. The amended drainage strategy layout now will direct surface water from the western parcel to an existing local watercourse to the north of that site, rather than an existing sewer, while the surface water from the eastern parcel will discharge to the sewer within West Lane. Both approaches achieve a discharge rate of 5l/s each and this is considered to be acceptable.
- 6.3. In addition to the above the Flooding & Drainage Manager had concerns that flood risk outside the development, where flooding to nearby properties has historically occurred, had not been adequately addressed. The applicant submitted a Technical Note that principally considered the capacity of the ordinary watercourse, a tributary of the Wham Dyke, that flows along the norther boundary of the western parcel. This note considered that under the existing baseline scenario that flooding is predicted at the inlet to the culvert at the northeast corner of the western parcel, but that the post-development scenario where surface water flows from the development site are restricted to 5l/s would significantly reduce flood risk.
- 6.4. The Flooding & Drainage Manager agrees with the finding of the note and subject to conditions to be attached to any approval including the implementation of the agreed drainage strategy and the management and maintenance of the watercourse for the lifetime of the development, they have no objections to the proposal.
- 6.5. It is therefore considered that subject to conditions, or the entering into of a section 106 legal agreement for ongoing management and maintenance, the proposal will comply with the aims and objectives of the Neighbourhood and Local Plans in respect of reducing flood risk on the site and reducing flood risk elsewhere.

7. Ecology

- 7.1. The applicant has submitted assessments and reports to demonstrate that residual effects on ecological features arising from demolition, clearance and construction activities can be sufficiently mitigated. An Appropriate Assessment under the Habitats Regulations has previously been undertaken by the Council's ecological advisors at the Merseyside Environmental Advisory Service (MEAS), which demonstrated that the development proposal would have no likely significant impacts on designated sites subject to mitigation measures. An updated Appropriate Assessment will be provided by MEAS having regard to the updated ecological reports submitted by the applicant. This will be reported as late representations.
- 7.2. Natural England have sought further information on the outcome of the Appropriate Assessment, prior to determination, and as such will be consulted on the revised report and will need to be agreed before determination.
- 7.3. In respect of the impacts on protected species the applicant has provided updated bat surveys that have been reviewed by MEAS. While the updated ecology and bat mitigation reports have been welcomed by MEAS they have sought clarification on a number of points namely:
 - Clarification as to the location of the eight bat roosts through the provision of an updated report clarifying the number of roosts and with the provision of a figure showing these.
 - Provision of information (within the document) as to what actions will be taken if a bat(s) is discovered.
 - Adequate justification as to the level and type of roost provision recommended for the loss of eight day roosts, considering the nature of the building and bats roosting across multiple aspects.
 - Clarification within the document as to whether the proposals for a minimum of three boxes per tree to be removed refers only to those trees categorized as PRF-I to be lost, or to all trees lost as part of the development.

Agenda Item 4c

- 7.4. The applicant has provided a response to the above and MEAS have been consulted on this, comments of which will be reported as late representations.
- 7.5. In addition to the impacts arising from the above, the proposal would add to recreational pressure on nearby designated sites of nature conservation through the provision of additional dwellings. The applicant has opted-in to the Council's approach to mitigate such impacts, which will be addressed through the paying of a commuted sum of £362 per dwelling and the provision of an information leaflet (Respecting Nature in Sefton Information Leaflet 3) to all first-time occupiers of the new homes.
- 7.6. As a matter of procedure this application was validated prior to Biodiversity Net Gain measures coming in to force and so the application cannot be assessed against nor be required to adhere to this national requirement. However, the Local Plan requires developments to enhance biodiversity and so a scheme to improve biodiversity through the installation of bat and bird boxes could be secured by a condition attached to any approval.
- 7.7. Subject, therefore, to the impact on protected species being acceptable or sufficiently mitigated and no objection being received from Natural England it is considered that the proposal is acceptable in this regard.

8. Other Matters

Affordable Housing

- 8.1. Due to the separation of the sites into two parcels that could be delivered independently of one another a split approach has been undertaken whereby the affordable housing contributions have been assessed on a parcel-by-parcel basis.
- 8.2. As set out in a vacant building credit statement submitted by the applicant the total floorspace to be lost from relevant buildings not in use within the western parcel of the site is 5,698.83m², with the total proposed floorspace to the western parcel falling 225.03m² below that amount at 5,473.80m². Therefore the application of vacant building credit ensures that no affordable housing contribution is required for this parcel.
- 8.3. For the eastern parcel the reduction in numbers of this area, from 40 to 38 to address tree matters, has resulted in a reduction in the required minimum amount of affordable housing from 13 dwellings to 12. As permitted by Local Plan policy HC1 "Affordable and Special Needs Housing" 6 of these units are to be provided as special needs housing, while the remaining 6 to be general affordable housing units. The provision of these units, and the definition of the special needs homes, could be secured within a section 106 legal agreement entered into prior any positive decision being made.
- 8.4. Subject to the securing of affordable housing within a section 106 legal agreement the proposal will accord with the Neighbourhood and Local Plans in this regard.

Infrastructure

- 8.5. Objectors have raised concern regarding increased pressure on local services, including local schools and health services.
- 8.6. The potential increased demand for services arising from all the housing developments proposed in the Local Plan was discussed in detail during the Local Plan examination. As part of this discussion, letters of assurances were submitted from the Clinical Commissioning Groups and the Local Education Authority. These demonstrated that current facilities (health and education respectively) could cope with the increased demand from the proposed development, or that facilities could, if required, be expanded to meet an increased demand. The Inspector, in his report on the Local Plan, stated:
- "Many local people are concerned about the ability of local schools and health facilities to deal with the significant additional demands from [various sites], but there is no compelling evidence that they will not be able to cope. The Council demonstrated that there is spare capacity at some (albeit not all) local schools, and the Clinical Commissioning Groups (CCGs) have given a borough-wide assurance that they are planning to accommodate the growing demand for health services and facilities."*
- 8.7. Policy IN1 "Infrastructure" of the Local Plan provides a framework to secure facilities or contributions towards facilities to support new housing. As an example, contributions have been secured towards additional school places where it has been forecast that there may be a shortfall. In relation to Formby, information from the Council's Schools and Families Team shows that young children reaching primary school age will decrease in the short term, and that the demand for primary schools places from the Formby (and Hightown) area will decrease. This is primarily due to the births in Formby decreasing since 2014/15. More generally in Sefton, whilst the population is expected to increase as a whole by 4% to 2041, the population of school aged children (i.e. those aged 5 to 16) is expected to increase by only 2%. Sufficient places will be available in local schools to meet any increased demand from new homes being built in Formby during the Local Plan Period. Similarly, health and social services are monitored so that future issues with capacity can be addressed in consultation with those responsible for providing services.
- 8.8. In light of the above, there is no new compelling evidence that suggests that services would not be able to cope with either the development of this site on its own or cumulatively with other housing allocations in Formby. The proposed development is in accordance with policy IN1 of the Local Plan.

Incidental Open Space

Agenda Item 4c

- 8.9. As evident within the submitted drawings there are areas of incidental open space across both parcels that fall outside the direct control of the respective dwellings or other uses/buildings proposed. Without appropriate management of these areas, some of which will also include new tree planting, there could be the potential for harm to the character of the area through lack of maintenance and care. Management and maintenance of these areas could be secured within a section 106 legal agreement.

Archaeology

- 8.10. MEAS have highlighted three non-designated heritage assets identified within the Merseyside Historic Environment Record within the eastern parcel of the development:

MME1150, the site of Formby Brewery, a 19th century building
MME1164, the site of Formby Tithe Barn, an 18th century building
MME11797, the site of Brewery House, a 19th century building

- 8.11. Previous evaluations of the site, undertaken by others, suggests that there are surviving below-ground remains in the north eastern part of the eastern parcel. As such MEAS recommend that a programme of archaeological work is undertaken to investigate, record and report of the significance of any below-ground archaeological interests. In the event of any approval this could be secured by a pre-commencement condition attached to any approval.

Trees

- 8.12. The total number of trees to be removed are 56 individual trees and tree groups to equate to a total of 206 stems being removed, with 224 new trees to be planted along with a further 211 saplings as part of a woodland native mix. As is evident more trees are being planted than being removed and as such accords with policy in a strict by-the-numbers approach. In respect of the impact on the character of the area, this has previously been addressed in paragraph 3.7 wherein the loss of and replacement of trees was considered to be acceptable
- 8.13. The implementation of and subsequent management of the new trees can be controlled by conditions attached to any approval.

9. Conclusion

- 9.1 In assessing the proposal having regard to the principle of development, the impact on the character of the area, the impact on living conditions, the impact on highway safety and amenity, the impact on ecology and other matters, it is considered that it complies with the aims and objectives of the Formby and Little Altcar Neighbourhood Plan and Seton Local Plan and all other material considerations.

It is, therefore, recommended that permission is granted approval, subject to no objections being raised by Natural England, and with the conditions that follow.

9.2 In addition to the conditions a number of measures or mitigation would have to be secured by a s106 legal agreement to cover, as a minimum, the following matters:

- Commuted sum of £362 per dwelling for mitigating recreation pressure (opt-in approach)
- Securing Affordable Housing provision and tenure split
- Securing and defining the special needs housing units
- Employment and Skills Plan for construction phase of the development
- Ongoing management of pavilion and open space in west parcel
- Ongoing management of areas of incidental open space to both parcels
- Ongoing management and maintenance of drains/drainage

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 no objection from Natural England and the signing of a section 106 legal agreement.

Conditions

Time Limit for Commencement

Agenda Item 4c

- 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:

Plans

101-1 Rev G 's104 Layout West'
101-2 Rev F 's104 Layout East'
102-1 Rev C 'Longsection Sht 1'
102-2 Rev D 'Longsection Sht 2'
102-3 Rev D 'Longsection Sht 3'
115-1 Rev B 's38 Layout West'
115-2 Rev C 's38 Layout East'
165-1 Rev B 'Flood Routing Plan'
6795.01 Rev F 'Landscape Proposal Sheet 1 of 5'
6795.02 Rev F 'Landscape Proposal Sheet 2 of 5'
6795.03 Rev F 'Landscape Proposal Sheet 3 of 5'
6795.04 Rev F 'Landscape Proposal Sheet 4 of 5'
6795.05 Rev F 'Landscape Proposal Sheet 5 of 5'
6795.06 Rev E 'Landscape Proposal Full Site'
GA-PN-002 Rev A 'GA Ground Floor'
GA-PN-003 Rev A 'GA Elevations'
4012-BTL-001 Rev H 'Boundary Treatment Layout'
4012-DSL-001 Rev AB 'Detailed Site Layout'
4012-EVCL-001 Rev H 'Electric Vehicle Charging Layout'
4012-LDL-001 Rev H 'Land Disposal Layout'
4012-LP-001 Rev B 'Location Plan'
4012-M4(2)-001 Rev F 'M4(2) Compliant Layout'
4012-ML-001 Rev F 'Materials Layout'
4012-PL-001 Rev B 'Parking Layout'
4012-WML-001 Rev F 'Waste Management Layout'
EF_HANB_DM.1 'The Hanbury 12 Block Elevations and Floorplans'
EG_AMBY_DM.2 Rev A 'Amberley Elevation Code B1'
EG_AMBY_DM.2 Rev A 'Amberley Elevation Code A1'
EG_CANTQ_DM.2 'Canterbury Lifestyle'
EF_GAR_SGS2 'Garage SGS_002 EF Series Brick (B1)'
EG_HAMP_DM.2 Rev A 'Hampstead Elevation Code B1/A1'
EG_HENL_DM.2 'Henley Elevation Code B1'

EG_LEAMQ_DM.2 'Leamington Lifestyle Elevation Code B1'
EG_LEAMQ_DM.2 'Leamington Lifestyle Elevation Code A1'
EG_OXFOQ_DM.2 M4(2) 'Oxford LS Elevation Code A1 Brick'
EG_OXFOQ_DM.2 M4(2) 'Oxford LS Elevation Code A1 Render'
EG_SHR3_DM.2 'Shrewsbury 3 Elevation Code B1'
EG_SHR3_DM.2 'Shrewsbury 3 Elevation Code A1'
EG_TS2_M.2 'Tavy/Spey M4(1) Elevation Code B1'
EG_TS2_M.2 'Tavy/Spey M4(1) Floorplans'
EG_TT4_M.2 'Tavy M4(1) Floorplans'
EG_TT4_M.2 'Tavy M4(1) Elevation Code B1'
EG_TT4_M.2 'Tavy M4(1) Elevation Code A1'
The Nugent 6 Bedroom Elevations and Floor Plans
The Weaver Elevations and Floor Plans
Bin and Cycle Store

Documents

Flood Risk Assessment and Drainage Strategy, Project No 21-2409.01, deltasimons July 2023
Watercourse Modelling Technical Note, Project No 21064, Banners Gate Limited 25 October 2024
Transport Assessment, ref BD/ML/VACE/ITM17387-001D, i-Transport July 2023
Accident Analysis Update, ref ITM17387-003 TN, i-Transport February 2024
Arboricultural Impact Assessment, ref 8763.03.001, Version 7, TEP October 2024
Arboricultural Method Statement, ref 8763.04.001, Version 1, TEP October 2024
Landscape and Visual Appraisal, ref 8763.02.001, Version 4, TEP July 2023
Ecological Assessment, ref 8763.01.002, Version 7, TEP December 2024
Bat Mitigation Strategy, ref 8763.01.007, Version 2, TEP December 2024
Desk Study & Ground Investigation, report No. 21RED194/DSGI, Betts Geo November 2021
Noise Impact Assessment, report no P21-548-R02v2, Hepworth Acoustics June 2023
Vacant Building Credit Statement (version 2), ref EDN2285, Eden March 2024

Reason: For the avoidance of doubt.

Before the Development is Commenced

- 3) No development other than that associated with demolition 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

Agenda Item 4c

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

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

Reason: The details are required prior to development 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.

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

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

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

Reason: The details are required prior to development 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 (including demolition) until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority to cover activities associated with demolition, site clearance and construction hereby approved

The approved statement shall be adhered to throughout the construction period and shall include but not be limited to:

- measures for the control of noise, vibration and dust during demolition of buildings and structures
- measures for the control of noise, vibration and dust during site clearance
- measures for the control of noise, vibration and dust during construction
- the justification for (to demonstrate best practicable means) and details of the chosen method of any piling and/or ground compaction

Reason: To safeguard the living conditions of neighbouring occupiers, land users and the features of the Sefton Coast SAC during both the demolition, site clearance and construction phases of the development.

- 7) No development or demolition shall take place on the eastern parcel until the implementation and submission of a report on a programme of archaeological works has been secured. That programme of archaeological works should be undertaken in accordance with a Written Scheme of Investigation (WSI) which has been submitted to and approved in writing by the local planning authority prior to works taking place. The WSI must include the following:

- o A phased programme and methodology of site investigation and recording;
- o A programme for post-investigation reporting to include production of a final report of the significance of the below-ground archaeological interest;
- o Provision for appropriate publication and dissemination of the archaeology and history of the site;
- o Provision for archive deposition of the report, finds and records of the site investigation; and
- o Nomination of a competent person or persons / organisation to undertake the works set out within the approved WSI.

Reason: In the interests of built heritage.

- 8) No development shall commence, including any works of demolition, until a Highways Construction Management Plan has been submitted to, and approved in writing by, the local planning authority to include but not be limited to details of the times of deliveries to the site, size and number of vehicles associated with demolition and clearance, the number and type of vehicles to be used during construction, the route of construction vehicles to/from site, any construction vehicle compound(s) and details of all wheel washing facilities.

The approved management plan shall be adhered to throughout demolition and construction.

Agenda Item 4c

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

- 9) a) No development shall commence above slab level until a detailed scheme of highway works for the provision of 4 no. site accesses from West Lane (including dropped kerbs and tactile paving) has been submitted to and approved in writing by the Local Planning Authority.

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

Reason: These details are required prior to commencement to ensure that acceptable access to the development is achieved and to ensure the safety of highway users.

During Building Works

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

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.

Before the Development is Occupied

- 11) a) The development shall not be occupied until a detailed scheme of highway works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- Footway reinstatement to redundant vehicle crossings on West Lane;
- Full reconstruction of the footways along both sides of West Lane for the full frontage of the site and for a further 10m to the south of the southern extent of the site on the western side and 10m to the north of the northern extent of the site on the western side;
- Provision of dropped kerbs and tactile paving at the junctions of West Lane/Stanley Road/St Annes Road and West Lane/Massams Lane;
- Improvements to Formby Public Footpath No.5, on the east boundary of the eastern parcel development extending from Brewery Lane to St Annes Close to include widening, surfacing with an approved material and provision of lighting.

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

Reason: To improve accessibility and to ensure the safety of highway users.

- 12) No dwelling shall be occupied until space has been laid out within the curtilage of that dwelling or within a designated car parking area for that dwelling and that space shall thereafter be kept available for the parking of vehicles for the duration of use of that dwelling.

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

- 13) No dwelling shall be occupied until an access road has been constructed to at least the base course level to enable access to that particular dwelling.

Reason: To ensure that acceptable access is achieved to the development and to safeguard other highway users at all times.

- 14) The sports pavilion shall not be used until space has been laid out within the site for cars to be parked 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 those uses for the duration of the use of the pavilion and.

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

- 15) a) The sports pavilion, Nugent Accommodation and the two blocks of apartments 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.

b) The facilities shall then be implemented prior to first use/occupation.

c) The facilities shall thereafter be retained for the duration of the specific use/building hereby approved.

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

- 16) No dwelling shall be occupied until a Traffic Regulation Order (TRO) for a 20mph speed limit on the proposed access road serving that dwelling is implemented in full, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the safety of highway users.

Agenda Item 4c

- 17) No dwelling shall be occupied until a detailed scheme of street lighting on the proposed access road serving that dwelling has been submitted to and approved by the Local Planning Authority.

No dwelling shall be occupied until the approved street lighting scheme has been implemented to sufficiently address that particular dwelling.

Reason: In the interests of highway safety.

- 18) Prior to the first occupation of any of the dwellings the drainage scheme shall be carried out in accordance with principles set out in the submitted Foul & Surface Water Drainage Design Drawing 101-1, Rev G - Dated 31.05.24 and Drawing 101-2 , Rev E, Dated 31.05.2024 which was prepared by Redrow. For the avoidance of doubt surface water must drain at the restricted rate of 10 l/s split between 2 connections, either of which to exceed 5 l/s.

Prior to the occupation of any dwelling a verification report must be submitted to and approved by the Local Planning Authority to confirm the implementation of the drainage scheme.

The drainage scheme must then be retained thereafter.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.

- 19) Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

(i) Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and

(ii) Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

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

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

- 21) Prior to the first occupation of the dwellings to plots 23, 24, 26, 27, 28, 31 (eastern parcel) 75 & 89 (western parcel) details for a suitably designed 2m high acoustic barrier to the side and/or rear boundaries must be agreed in writing with the Local Planning Authority.

The approved scheme must be installed before the dwellings become occupied and retained thereafter for the duration of use of the dwellings.

Reason: To ensure sufficient living conditions for future occupiers.

- 22) Prior to the first occupation of any of the dwellings hereby approved details of the number, type and location of bird nesting boxes and bat boxes to be installed must be submitted to and approved by the Local Planning Authority.

The boxes must then be installed prior to the first occupation of any of the dwellings or in accordance with an agreed timetable and retained thereafter.

If any boxes are to be installed on trees outside of the curtilage of the dwellings then a management plan for their ongoing retention and maintenance must be submitted to and approved by the Local Planning Authority

Reason: To enhance biodiversity.

- 23) No part of the development shall be occupied until a landscape management plan has been submitted to and approved in writing by the local planning authority.

The management plan shall cover a period of no less than 25 years and shall demonstrate how new planted trees (outside of dwelling curtilage) and incidental areas of open space will be managed.

The management plan shall be implemented prior to first occupation of any dwelling.

Reason: To ensure appropriate management of trees and open space.

Agenda Item 4c

- 24) Prior to the first occupation of any dwelling a detailed method statement for new trees planted adjacent to pavements and carriageways must be submitted to and approved by the Local Planning Authority.

The relevant trees shall then be planted in accordance with the approved details.

Reason: To secure appropriate arboricultural practice and to ensure highway safety.

- 25) Within the first planting/seeding season following completion of the development, all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

Ongoing Condition

- 26) The sports pavilion hereby approved shall not be used outside the hours of 07:00 - 22:00.

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

Informatives

- 1) The applicant is advised that the proposal will require the formal allocation of addresses. Contact the Development and Support team on 0151 934 4195 or E-Mail snn@sefton.gov.uk to apply for a street name/property number.
- 2) The applicant is advised that all works to the adopted highway must be carried out by a Council approved contractor at the applicant's expense. Please contact the Highways Development and Design Team at HDD.Enquiries@sefton.gov.uk for further information.
- 3) There will be a requirement for the applicant to enter into a s278 Highways Act 1980 Legal Agreement to facilitate the works on the adopted public highway and a s38 Highways Act 1980 Legal Agreement to have the proposed new carriageways and footways within the development adopted by the Council. Please contact Sefton's Highway Development and Design team in this respect - email: HDD.Enquiries@sefton.gov.uk
- 4) There are a variety of piling methods available, some of which cause considerably greater noise and vibration than others. It is common for the prevailing ground conditions to influence the chosen method of piling. Where the prevailing ground conditions would permit more than one piling method, the Council would expect the contractor to choose the method which causes the least amount of noise and vibration, in accordance with the following hierarchy:

Pressed-in methods, e.g. Hydraulic jacking

Auger / bored piling
Diaphragm Walling
Vibratory piling or vibro-replacement
Driven piling or dynamic consolidation

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

- 5) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 3, 4, 5, 10 and 20 above have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing, until condition 10 has been complied with in relation to that contamination. Contaminated land planning conditions must be implemented and completed in the order shown on the decision notice above.

This page is intentionally left blank

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 24 October 2024 and 21 November 2024

Appeal Decisions

41 Durham Road Seaforth L21 1EF

Reference: DC/2024/00442 (APP/M4320/W/24/3345419)
 Change of use from retail unit and maisonette to 2 flats

Procedure: Written Representations
Start Date: 18/07/2024
Decision: Dismissed
Decision Date: 12/11/2024

90 Gores Lane Formby Liverpool L37 7DF

Reference: DC/2021/01383 (APP/M4320/W/23/3332119)
 Erection of one padel court with floodlights (Alternative to DC/2021/00304 withdrawn 27/04/21).

Procedure: Written Representations
Start Date: 13/03/2024
Decision: Allowed
Decision Date: 06/11/2024

End Cottage 4 Mount Cottages Prescott Road Melling L31 1AR

Reference: EN/2023/00495 (APP/M4320/C/23/3333707)
 Appeal against without planning permission, a raised timber deck including an outbuilding has been erected, in the approximate position shown coloured blue on the attached Plan 2.

Procedure: Written Representations
Start Date: 23/01/2024
Decision: Dismissed
Decision Date: 05/11/2024

New Appeals

2 Crown Buildings Liverpool Road Birkdale PR8 3BY

Reference: DC/2024/01364 (APP/M4320/W/24/3352808)
 Installation of a new shop front and security shutters (retrospective)

Procedure: Written Representations
Start Date: 31/10/2024
Decision:
Decision Date:

14 Gorse Way Formby L37 1PB

Reference: DC/2024/01300 (APP/M4320/D/24/3354307)
 Conversion of existing bungalow into a two storey dwellinghouse with a two storey extension to rear

Procedure: Householder Appeal
Start Date: 08/11/2024
Decision:
Decision Date:

50 Elm Road Seaforth L21 1BL

Agenda Item 5

Appeals received and decisions made between 24 October 2024 and 21 November 2024

Reference: DC/2024/01164 (APP/M4320/W/24/3353177)
Change of use from a dwellinghouse (Class C3) to a children's home for up to 2 children (Class C2)

Procedure: Written Representations
Start Date: 05/11/2024
Decision:
Decision Date:

Land At The North West Of Lynton Drive, With Access Between 12 And 14 Lynton Drive E

Reference: DC/2024/00855 (APP/M4320/W/24/3353822)
Erection of a one bedroom detached two storey dwelling and solar car port with access between Nos.12 and 14 Lynton Drive

Procedure: Written Representations
Start Date: 04/11/2024
Decision:
Decision Date:

Appeal Decision

Site visit made on 25 October 2024

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2024

Appeal Ref: APP/M4320/W/24/3345419

41 Durham Road, Seaforth, Sefton L21 1EF

- 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 Gary Fleet against the decision of Sefton Council.
 - The application reference is DC/2024/00442.
 - The development proposed is a change of use from retail unit and maisonette to two flats.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the living conditions of future residents with regard to noise, privacy and the suitability of the outdoor amenity space.

Reasons

3. The property has residential accommodation and a shop. The proposal would convert the area associated with the former shop to residential accommodation and would result in two flats. The floor layout proposed would result in a bedroom in the new ground floor unit within the former shop area. The bedroom would have windows directly onto the pavement in this prominent corner position.
 4. The council's Supplementary Planning Document: Conversions to Flats and Houses in Multiple Occupation 2023 (SPD) deals with the situation proposed specifically. It advises that where there is no front garden, a front room used as a living room, dining room or home office, does not cause an issue. However, if the room is used as a bedroom, it can result in unsatisfactory living accommodation due to noise from the street from passing pedestrians and traffic. To protect the residential amenity of future residents, the SPD seeks to prevent such a room being used as a bedroom, unless there is a front garden space of at least three metres that separates it from the highway.
 5. The proposal would result in the potential for disturbance from pedestrian passers-by and from the road. It would also result in a lack of privacy unless the outlook from that room was severely restricted. As a ground floor flat could be achieved without a bedroom in the exposed former shop area position,
-

- albeit possibly resulting in only a one-bed unit, this arrangement represents poor design. The proposed layout conflicts with policy HC 4(2b) of the Sefton Local Plan 2017 (LP), the SPD and the *National Planning Policy Framework 2023*, which all seek a high standard of amenity.
6. As the other ground floor windows are set just under three metres from the pavement, there would inevitably be some conflict with the SPD. However, they are set back beyond the front forecourt and the boundary wall and hedge. A revised layout that would avoid the use of the most exposed room as a bedroom room would clearly be more satisfactory and would represent improved design.
 7. The council are also concerned with regard to the outdoor amenity space proposed. At present there is an enclosed private amenity area to the rear which is of a reasonable size. The arrangement proposed allows for the space to the rear to be used for the first floor flat but the space would be subdivided to provide more space for the ground floor flat. This would result in a poor entrance arrangement, an enclosed narrow area to accommodate the access and the bin store and then a relatively small remaining area that would offer very limited amenity to the residents of the first floor flat. It would also adjoin the kitchen window of the ground floor flat and although this is shown as a high-level window, this arrangement would not be ideal and would reduce the quality of both the kitchen and the outdoor space.
 8. The proposal for the downstairs unit would utilise the extended forecourt area which would offer only limited amenity. The extension of the forecourt into the rear enclosed area would not materially improve the outdoor accommodation for the ground floor flat but would significantly reduce the quality of the rear outdoor space for the first floor flat. The proposed layout results in poor outdoor amenity space for both units and this represents poor design.
 9. Given the nature of this property, without harming the appearance of the street scene, it is inevitable that suitably private and functional outdoor space could only be provided for one of the units. In these particular circumstances, given the lack of private outdoor space available, the benefits of the additional unit would outweigh the harm from having only limited outdoor space for one of the units and the conflict with the SPD. Whilst some conflict with the SPD is inevitable with regard to outdoor space, the layout proposed does not represent a satisfactory compromise and would also conflict with the amenity requirements of LP policy HC 4(2b).
 10. The proposal results in a number of further design shortcomings. This terrace, along with the neighbouring terrace and the public house opposite, have very distinctive detailing to their brickwork; door and window surrounds; and eaves. The loss of the existing front door and some of the ornate brickwork would be to the detriment of the appearance and character of this property. The two new entrance arrangements would also represent poor design. These matters add to my overall concerns.
 11. Although the appellant makes reference to permitted development rights, as this is a unit with a display window, I am not certain what is being suggested as being a lawful alternative. A plan or a lawful proposed development certificate have not been provided.

12. There would be significant benefits to returning this property to a full and efficient use; and the addition of a further unit of accommodation would benefit local housing provision and provide both economic and social benefits. I have had regard also to the personal circumstances of the appellant, the nature of surrounding properties and the other conversions referred to. However, as the layout proposed could be significantly improved so as to avoid many of the shortcomings identified, the weight in favour of the proposal is not sufficient to outweigh the concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR

Appeal Decision

Site visit made on 3 October 2024

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2024

Appeal Ref: APP/M4320/W/23/3332119

90 Gores Lane, Formby, Merseyside, L37 7DF

- 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 Paul Brereton against the decision of Sefton Metropolitan Borough Council.
 - The application Ref is DC/2021/01383.
 - The development proposed is the erection of one padel court with floodlights.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of one padel court with floodlights at 90 Gores Lane, Formby, L37 7DF in accordance with the terms of the application, Ref DC/2021/01383, subject to the following conditions.
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawings : Location Plan; Proposed Site Plan; Dimensions of padel court; Padel Court Dimensions (fig 4); Plan view; Isometric Drawing; Side view Drawing; End view Drawing; Padel court view from South; Padel Court view from the East; Padel Court view from the West;
 - 3) Prior to the first use of the padel court, the acoustic fence (as detailed in Sharps Redmore Acoustic Assessment – Project No 2120607 dated 4 February 2022) shall be constructed. The completed acoustic fence shall be maintained as such for the life of the development.
 - 4) The proposed floodlights shall be installed in accordance with the submitted details and the level of illumination shall not exceed that set out in the lighting spillage drawing at any time.
 - 5) The padel tennis court shall only be used between the hours of 08:00 - 22:00.

Preliminary Matters

2. On 19 December 2023, the Government published a revised National Planning Policy Framework (the Framework). However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party and I have therefore made my decision in accordance with the revised Framework.

Main Issue

3. The main issue is the effect of the development upon the living conditions of nearby residents in Deans Court, with particular regard to noise disturbance.

Reasons

4. The appeal site is located in a largely residential area but is bounded by Formby Cricket and Hockey club to the east. There are residential properties in all other directions including Deans Court to the west, Piercefield Road to the south and Timms Close to the north beyond the existing tennis courts. There is an existing single storey clubhouse which is located between the closest Deans Court properties and the location of the padel court. The proposed padel court would have an all-weather surface with a canopy and would be floodlit. The sides would not be fully enclosed.
5. The application was supported by an acoustic assessment, a further technical note, and responses to the Councils concerns. These documents include details of the background noise levels at the appeal site as well as noise levels from other operational padel courts.
6. At the time of my site visit, there were no sporting activities taking place at the tennis club or the adjoining cricket and hockey club. As such, the site and its surroundings were quiet with little background noise. However, I am conscious that this only represents a snapshot in time.
7. From the evidence before me, the padel court would be around 12 metres from the site boundary to Deans Court and around 25 metres from the habitable room windows of Nos 7 and 9.
8. In my view, without mitigation, the noise generated from activities on the padel court is likely to cause some disturbance to the occupiers of the nearby residential properties, with the most susceptible being Nos 7 and 9 Deans Court. The main noise sources are likely to be from balls hitting the perimeter screen, bats striking the ball, and from player noise. These noise elements are not likely to be constant, and invariably there would be noise impact peaks during games.
9. Noise mitigation measures set out on the noise report includes a 1.8 metre acoustic fence along the boundary between the tennis club and the Deans Court properties (and also to the rear of some of the Piercefield Road properties). An alternative or additional mitigation proposal is described as 'closing off' open gaps on the court's south and west sides with proprietary acoustic blankets. However, the acoustic properties and modelling of this option has not been fully detailed so it is not clear whether this would be sufficient to mitigate noise from the court if this was an alternative. However, as additional mitigation, this would clearly have additional benefits.
10. The noise modelling indicates that the acoustic fence would provide some reduction in noise levels from the padel court to the garden areas of the Deans Court properties. Given the predicted noise levels, I am of the opinion that the level of noise reduction is sufficient to mitigate additional noise arising from the Padel Court. I am also conscious that it would also provide an additional benefit of providing some mitigation from other noise sources such as the hockey and cricket pitches. Whilst this is not a determinative factor, it is a consideration which weighs in favour of the overall proposal.

11. Turning to the noise impact to habitable rooms, particularly at first floor level, the proposed acoustic fence would offer little (if any) mitigation. However, any noise experienced inside of the building would be lower than the modelled figures as the building itself would provide some mitigation. Furthermore, a restriction of the hours of operation of the padel court would prevent unacceptable levels of noise late in the evenings when there would be a greater expectation of lower noise levels for residential amenity purposes. Given the modelled noise levels, I consider that the level of noise which would be experienced internally would not be so excessive to warrant the withholding of planning permission subject to such a hours of operation restriction.
12. Taking all of the above into account, the proposal would not give rise to excessive noise to the occupants of the surrounding residential properties and would accord with Policy EQ4 of the Sefton Local Plan (2017) which amongst other matters seeks to ensure that appropriate measures have been taken to minimise the risks of adverse impacts on amenity from noise pollution and that the impact of noise is not significant or can be reduced to an acceptable level.

Other Matters

13. The appeal proposal is located close to the Green Lane Conservation Area. The Council have not raised any concerns over the impact of the development on the Conservation Area, and from evidence before me and my site visit, I agree that there would be little restriction on views into and out of it. I therefore conclude that its setting would not be harmed.

Conditions

14. The Council have provided a list of condition it considers appropriate in the event that I allow the appeal. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.
15. As detailed above, in the interests of the living conditions of the neighbouring residential properties, a condition requiring the installation (and retention) of the acoustic fence as set out in the noise reports is necessary. Conditions limiting the hours of operation of the court and in respect of the level of illumination from the floodlights are also required.

Conclusion

16. For the reasons given above the appeal should be allowed.

Chris Forrett

INSPECTOR



Appeal Decisions

Site visit made on 21 August 2024

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2024

Appeal A Ref: APP/M4320/C/23/3333707

Appeal B Ref: APP/M4320/C/23/3333708

Land to the rear of End Cottage, Prescott Road, Melling L31 1AR and 2 Prescott Road, Melling, L31 1AR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended). Appeal A is made by Miss Anna Westhead and Appeal B by Mr Joe Parker against an enforcement notice issued by Sefton Metropolitan Borough Council.
 - The notice was issued on 25 October 2023.
 - The breach of planning control as alleged in the notice is a raised timber deck including an outbuilding has been erected, in the approximate position shown coloured blue on the attached plan 2.
 - The requirement of the notice is: You must remove the timber deck and outbuilding from the property.
 - The period for compliance with the requirement is: One month.
 - The appeals are proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decisions

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

Preliminary Matters

2. Since the appeals were lodged, a revised version of the National Planning Policy Framework ("the Framework") was published in December 2023. However, the parts of the Framework most relevant to the appeals have not substantially changed from the previous iteration. Consequently, it has not been necessary for me to seek further comments from the main parties in this respect. I have determined the appeals accordingly.
3. On 30 July 2024, the Government published its National Planning Policy Framework: draft text for consultation. While the document proposes changes to the Green Belt chapter of the National Planning Policy Framework, at the time of writing my decision, it remains in draft form and is therefore subject to change. I therefore afford it very limited weight.

Ground (a) - the deemed planning application

Main Issues

4. The appeal site comprises a two-storey dwelling which is situated within a large plot and located within the Green Belt. A third-party has questioned whether

the development is within the curtilage of the appeal property. The extent of the curtilage of a building is a question of fact and degree, and it is therefore a matter for the decision maker, subject to the normal principles of public law.

5. Curtilage defines an area of land in relation to a building and is not a use of land. Having had regard to the relevant case law¹, I find that the land concerned is intimately associated with and serves the purpose of the host dwelling in a useful way. Furthermore, when considering the physical layout, ownership, and the use and function of the land, I concur with the Council's finding that the appeal development is within the curtilage of End Cottage.
6. The main issues are therefore:
 - Whether the development is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt;
 - The effect of the development on the living conditions of occupiers of Highfield, with particular regard to overlooking and outlook;
 - The effect of the development on the character and appearance of the area; and
 - If the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the development is inappropriate development

7. Policy MN7 of A Local Plan for Sefton (adopted April 2017) (LP) and the House Extensions Supplementary Planning Document (adopted May 2023) (SPD) sets out how the Council will apply and interpret the requirements of national Green Belt policy. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. Paragraph 154 of the Framework advises that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions. The Council state that none of these exceptions apply to the appeal scheme, whilst the appellants do not suggest that it should be considered under any of the exceptions set out under paragraph 154. Nevertheless, I shall consider whether the appeal scheme would fall under any of the exceptions.
9. The development comprises a timber outbuilding erected upon a raised timber deck at the extreme eastern end of the rear garden. Paragraph 154 c) of the Framework allows the extension or alteration of a building provided that it does

¹ Sinclair-Lockhart's Trustees v Central Land Board [1950] 1 P&CR 195, Methuan-Campbell v Walters [1979] 1 QB 525, Burford v SSCLG and Test Valley BC [2017] EWHC 1493 (Admin), and Hampshire CC & the Open Spaces Society & Others v SSEFRA & Blackbushe Airport Ltd [2020] EWHC 959 (Admin), [2021] EWCA 398, [2020] JPL 1359

not result in disproportionate additions over and above the size of the original building.

10. Case law² indicates that extensions can include structures which are physically detached from the building of which they are an extension. However, the case law does not set a specific distance at which a freestanding building should, or should not, be considered an extension. In the case of the appeal development, whilst its function is related to the main dwelling, given its design and appearance which do not reflect that of the dwelling, and the considerable distance between it and the host property, spatially and visually, there is a conspicuous disconnection between them. As a result, the development is clearly perceived as an outbuilding rather than an extension.
11. Consequently, I do not consider it is reasonable to regard the building as an extension to the host dwelling, and so it does not fall under the exception at paragraph 154 c). Moreover, none of the other exceptions listed under paragraphs 154 or 155 appear relevant to the development in this instance, and neither party has suggested otherwise.
12. Thus, the raised timber deck and outbuilding do not meet any of the exceptions set out in the Framework and fail to comply with Policy MN7 of the LP and guidance contained within the SPD. Therefore, the development represents inappropriate development in the Green Belt and is, by definition, harmful to the Green Belt.

Openness

13. Paragraph 142 of the Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence. Openness has a visual and spatial dimension.
14. The raised timber deck and outbuilding sit immediately adjacent to the rear boundary of the property and is a substantial structure which occupies an area of land that was previously free from development. Therefore, given the obvious increase in both footprint and volume, the development has the unavoidable consequence of resulting in the reduction in the spatial openness of the Green Belt.
15. Despite the spatial reduction in the openness of the Green Belt, there is a more limited visual reduction in openness. Its location in the rear garden of the property means there is no visibility of the structure from Prescott Road. By virtue of its size and height, views of the structure will be possible from adjacent residential properties and their gardens, albeit these views are partially obscured by existing vegetation and boundary treatments. Whilst clear views of the development are possible from agricultural fields to the rear of the appeal site, I have no evidence before me to indicate that there is any public access or vantage points from this land.
16. Given that there are limited views available of the development, it makes only a minimal contribution to the visual aspect of openness. Notwithstanding this limited visual impact, spatially the development reduces the openness of the Green Belt through the introduction of a new building in an area of garden which was previously free from built form. Overall, the development does not

² Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin)

Agenda Item 5

Appeal Decisions APP/M4320/C/23/3333707 & 3333708

preserve the openness of the Green Belt and, given the fundamental aim of the Green Belt to keep land permanently open, this loss of openness weighs further against the development.

Living Conditions

17. The raised timber deck and outbuilding is constructed around a tree at the far end of the rear garden, close to the boundary with the neighbouring property Highfield. The boundary between the appeal site and Highfields consists of a timber fence measuring around 1.8m in height, with a further section of trellis attached on top that takes the overall height of the boundary treatment above 2m. In addition, there are trees positioned periodically along the boundary which provide some further screening.
18. The raised timber deck is around 2m above ground level, with the outbuilding that has been placed on the raised deck measuring around 2.1m in height. The outbuilding has one window which faces out across the agricultural fields to the rear, and therefore, there is no overlooking of the neighbouring property Highfield from inside the outbuilding itself. The only point where there is an open raised platform is a small seating area at the top of the steps next to the outbuilding.
19. The open seating area is partially enclosed by a solid timber fence along the side of the raised deck nearest to the boundary with Highfield. However, due to its height and the proximity of the neighbouring property, when stood on the raised timber deck views into the rear garden of Highfield are still possible. These views were possible despite the trees along the boundary being in leaf at the time of my visit. Therefore, it is likely that during winter months the opportunities for overlooking into the rear garden of Highfield will increase.
20. Given the significant distance between the development and the rear elevation of Highfield, along with the partial screening provided by the existing trees, I do not consider that views from the raised deck into habitable windows of the property are possible. Nevertheless, there remains opportunity for overlooking from the development into the rear garden of Highfield, thus resulting in a loss of privacy for neighbouring occupiers. Accordingly, the development has a harmful impact on the living conditions of occupiers of Highfield with regard to privacy.
21. Despite its size and overall height, any dominance or sense of overbearing from the structure towards Highfield is lessened by presence of existing trees. Whilst it is a solid structure, given its location in amongst trees at the far end of the rear garden, the development is not overly dominant or overbearing and does not have a significantly detrimental effect upon outlook.
22. Consequently, although I have not identified any harm with regard to outlook, the development causes harm to the living conditions of occupiers of Highfield with regard to privacy. As a result, the development conflicts with policy HC4(c) of the LP which seeks, amongst other things, to ensure that developments do not result in a significant loss of privacy for neighbouring residents.

Character and Appearance

23. The raised timber deck and outbuilding is located at the far end of the rear garden, and therefore it is not visible from Prescott Road or the wider street

scene. However, the elevated nature of the development means that it is visible from neighbouring properties.

24. The development is constructed around a tree which, along with further trees in the vicinity, result in it being visually contained. Furthermore, its construction in wood enables it to blend with the trees, although it would benefit from being painted or stained a darker colour. This would further reduce its prominence from neighbouring gardens, enabling it to blend in sympathetically such that it would be relatively unobtrusive. This is a matter that could be the subject of a condition.
25. The Council consider that the development is out of character with the pattern of the existing rear boundary treatment, which is predominantly hedging and vegetation. However, the raised deck and outbuilding is clearly viewed as a free-standing structure within the rear garden of a residential property and does not form part of the boundary treatment which is unaffected. Furthermore, visually the development has the appearance of a tree house which is not an alien concept within the rear garden of a residential property.
26. Consequently, subject to an appropriately worded planning condition, I conclude that the development does not result in any harm to the character and appearance of the area. In relation to this main issue, the development therefore accords with policies EQ2 and HC4 of the LP, and guidance contained within the SPD. Together these seek, among other things, to ensure that developments respond positively to the character, local distinctiveness, and form of its surroundings, and make a positive contribution through the quality of its design.

Other Considerations

27. The appellants state that the raised deck and outbuilding allows them to relax and unwind from the stresses of daily life, and to enjoy the views and watch birds and other wildlife. They also contend that it will help children learn about nature. Nonetheless, these are largely private benefits solely for the benefit of the appellants. Furthermore, it has not been demonstrated that the appeal development is the only means by which these can be achieved. These considerations therefore carry limited weight in favour of the development.
28. The appellants also refer to an intention to help biodiversity, which includes keeping bees, chickens, and butterflies. However, it is unclear how the appeal development will assist in achieving those aims which could equally be accomplished without the raised timber deck and outbuilding. I therefore attach no weight to this consideration.

Planning Balance and Conclusion

29. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be supported except in very special circumstances. It goes on to advise that substantial weight should be given to any harm to the Green Belt and that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
30. I have found the development to be harmful to the Green Belt by reason of inappropriateness and loss of openness. This amounts to a matter of substantial weight, to which I must add the harm caused to the living

conditions of occupiers of Highfield. Although I have found that the development does not cause harm to the character and appearance of the area, the absence of harm is a neutral matter which does not carry weight in favour of the development.

31. The largely private benefits identified by the appellants attract only limited weight in favour of the development. Accordingly, these considerations do not outweigh the substantial weight that I have given to the harm caused to the Green Belt and the additional harm identified. Consequently, the very special circumstances necessary to justify the development do not exist.
32. For the reasons set out above, the development conflicts with the development plan when read as a whole, and the Framework. Material considerations do not indicate that a decision should be taken other than in accordance with that plan. Having considered all matters raised, I therefore conclude that the appeals on ground (a) should be dismissed, and planning permission be refused on the deemed applications.

Other Matters

33. Reference has been made by the appellants to other developments nearby in the Green Belt. These include a development of 1,600 homes, an outline application for 855 homes, a caravan site, and two tree houses. I have extremely limited details of the developments referred to, including any justification provided for them. It is also unclear whether some of the developments have been granted planning permission by the Council. Furthermore, from the information available it seems that many are of an entirely different context to the proposal before me, such as the 1,600-home scheme, and are likely to be subject to different site and policy contexts. As such, these examples do not assist the appellants.
34. Matters relating to a dispute between the appellants and the occupiers of Highfield regarding the removal of a hedgerow and fence, and the installation of CCTV cameras have been brought to my attention. However, such matters fall outside the scope of these appeals, and I can only have regard to the planning merits of the case.

Conclusion

35. For the reasons given above, I conclude that the appeals do not succeed. I have upheld the enforcement notice and refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

David Jones

INSPECTOR

Planning Committee
Visiting Panel Schedule

Date Monday 9th December 2024

Start: 10:00 am at BOOTLE TOWN HALL

Agenda Item	Time	Application Details	Ward
4A	10:15am	DC/2024/01492 Land At Pendle Drive, Litherland L21 0JH	St Oswald
4B	10:40am	DC/2024/01644 5 The Cloisters Halsall Lane, Formby L37 3PX	Harington
4C	10:55am	DC/2023/01277 Land To The East And West Of West Lane, Formby L37 7AZ	Harington

This page is intentionally left blank