

## Appeals Received and Decisions Made

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Appeals received and decisions made between [24 February 2021](#) and [22 March 2021](#)

## Appeal Decisions

### [37 Dorbett Drive Crosby Liverpool L23 0RY](#)

**Reference:** DC/2020/01921 (APP/M4320/D/21/3266769)

Prior approval submission for a proposed rear extension projecting 4.8 metres from the rear wall of the original dwellinghouse with a height of 2.82 metres at the eaves and a maximum height of 3.87 metres, after demolition of single storey outrigger (Valid 23.09.2020)

**Procedure:** Householder Appeal

**Start Date:** 27/01/2021

**Decision:** Dismissed

**Decision Date:** 11/03/2021

### [Land Bounded By Poverty Lane To The South, A Railway Line To The West, Whinny Brook To The North And The M58 Motorway To The East, Maghull](#)

**Reference:** DC/2017/01532 (APP/M4320/W/20/3257252)

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

**Procedure:** Informal Hearing

**Start Date:** 24/08/2020

**Decision:** Allowed

**Decision Date:** 22/02/2021

### [235 Worcester Road Bootle L20 9AE](#)

**Reference:** DC/2020/00083 (APP/M4320/W/20/3258298)

Change of use from a garage/dwelling to a House in Multiple Occupation (HMO) (Sui Generis) (7 units).

**Procedure:** Written Representations

**Start Date:** 23/09/2020

**Decision:** Allowed

**Decision Date:** 20/01/2021

### [157 College Road Crosby Liverpool L23 3AS](#)

**Reference:** DC/2020/01362 (APP/M4320/Z/20/3261132)

Advertising Consent for the display of 1 internally illuminated 16 sheet sign on the gable wall of the property to replace existing sign

**Procedure:** Householder Appeal

**Start Date:** 10/12/2020

**Decision:** Allowed

**Decision Date:** 08/01/2021

### [45 Stanley Road Bootle L20 7AW](#)

**Reference:** DC/2019/02007 (APP/M4320/W/20/3258714)

Variation of Condition 2 pursuant to planning permission DC/2019/00163 approved 28/05/2019 amended plans due to the re positioning of the cycle store due to introduction of electric meter services and alterations and amendments to elevations

**Procedure:** Written Representations

**Start Date:** 30/09/2020

**Decision:** Allowed

**Decision Date:** 21/12/2020

## New Appeals

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### Eden Salon 32 Arbour Street Southport PR8 6SQ

**Reference:** DC/2020/00949 (APP/M4320/D/20/3265736)

Erection of a two storey extension to the rear of property

**Procedure:** Written Representations

**Start Date:** 09/03/2021

**Decision:**

**Decision Date:**

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### 34 St Andrews Road Crosby Liverpool L23 8UB

**Reference:** DC/2020/01866 (APP/M4320/D/20/3266008)

Erection of two storey extensions to the both sides and rear, alterations to the roof, rear dormer extension, incorporating a balcony, a living green wall to form part of rear dormer, and alterations to the rear boundary and landscaping of the dwellinghouse (part retrospective).

**Procedure:** Householder Appeal

**Start Date:** 09/03/2021

**Decision:**

**Decision Date:**

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### Former Central Buildings Church Road Crosby

**Reference:** DC/2020/00734 (APP/M4320/W/20/3266042)

Erection of a four-storey building containing 2 commercial units and 39 apartments with associated parking

**Procedure:** Written Representations

**Start Date:** 22/03/2021

**Decision:**

**Decision Date:**

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### 144 College Road Crosby Liverpool L23 3DP

**Reference:** DC/2020/01972 (APP/M4320/W/21/3266665)

Change of use from Retail (E(a)) to Cafe/ Hot Food Takeaway (Sui generis).

**Procedure:** Written Representations

**Start Date:** 02/03/2021

**Decision:**

**Decision Date:**

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### Abbotsford Court 24 Abbotsford Road Crosby Liverpool L23 6UX

**Reference:** DC/2020/00455 (APP/M4320/W/21/3266992)

Erection of a fourth floor to accommodate 2 self-contained flats.

**Procedure:** Written Representations

**Start Date:** 02/03/2021

**Decision:**

**Decision Date:**

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### Meadowcroft 2 Old Rectory Green Sefton Village Liverpool L29 6YD

**Reference:** DC/2020/02082 (APP/M4320/W/21/3267517)

Change of use from garden room to office for administration only (retrospective application)

**Procedure:** Householder Appeal

**Start Date:** 12/03/2021

**Decision:**

**Decision Date:**

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### Highways Land Green Lane Thornton Liverpool L23 1TJ

**Reference:** DC/2020/01140 (APP/M4320/W/21/3267905)

**Procedure:** Written Representations

Appeals received and decisions made between [24 February 2021](#) and [22 March 2021](#)

Prior Notification Procedure for the installation of a 20 metre high streetworks column supporting 6 antennas, two 0.3m dishes and ancillary equipment, the installation of 2 equipment cabinets and development ancillary thereto

**Start Date:** 22/03/2021

**Decision:**

**Decision Date:**



# Appeal Decision

by **Siobhan Watson BA(Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

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**Appeal Ref: APP/M4320/D/21/3266769**

**37 Dorbett Drive, Crosby, L23 0RY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
  - The appeal is made by Mr Mark McLaughlin against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2020/01921, dated 20 September 2020, was refused by notice dated 3 November 2020.
  - The development proposed is the demolition of a single storey outrigger and the construction of a single storey extension.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The appeal has been determined on the basis of the plans as the issue is a technical matter solely dependent upon the provisions of the above Order. No site visit has been undertaken.

## Main Issue

3. Whether the proposed extension would constitute permitted development.

## Reasons

4. The provisions of Article 3, Schedule 2, Part 1, Class A to the GPDO enable the enlargement of a dwellinghouse to be permitted development. However, under A.1.(j) an extension would not be permitted development if the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would have a width greater than half the width of the original dwellinghouse.
5. There is no dispute between the parties that the extension would extend beyond a wall forming a side elevation of the original dwellinghouse. I note the appellant's argument that the original outrigger has never been habitable. Nevertheless, it has been attached to the house and therefore forms part of the the original dwellinghouse.

6. The Permitted Development Rights for Householders Technical Guidance<sup>1</sup> (TG) explains that a wall forming a side elevation of a house will be any wall that cannot be identified as being a front wall or a rear wall. The side wall of the outrigger is neither a front or a rear wall.
7. The TG goes on to say that where an extension is beyond any side wall, the restrictions in (j) will apply and that any such extension can not be more than half the width of the original house. The extension would be the full width of the house. It also specifically says that where an extension fills the area between a side elevation and a rear wall, then the restrictions on extensions beyond rear walls and side walls will both apply.
8. For the above reasons, the proposed extension does not constitute permitted development and the appeal is dismissed.

*Siobhan Watson*

INSPECTOR

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<sup>1</sup> Ministry of Housing Communities and Local Government, September 2019



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## Appeal Decision

Hearing opened on 15 December 2020

Site visits made on 4 & 13 January 2021

**by Richard Clegg BA(Hons) DMS MRTPI**

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

**Decision date: 22 February 2021**

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### **Appeal Ref: APP/M4320/W/20/3257252**

#### **Land north-east of Poverty Lane, Maghull**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for full and outline planning permission.
  - The appeal is made by Countryside Properties (UK) Ltd & Persimmon Homes Ltd against Sefton Council.
  - The application Ref DC/2017/01532, is dated 23 August 2017.
  - The development proposed was originally described as 'a hybrid application seeking full planning permission for the demolition of existing buildings and the erection of 830 residential dwellings (C3), new vehicular accesses off Poverty Lane, public open space and ancillary infrastructure; and outline planning permission for an older persons housing scheme (C2, C3) and ancillary infrastructure with all matters reserved'.
  - The hearing was conducted over three days, 15-17 December 2020.
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#### **Decision**

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

#### **Procedural matters**

2. An inquiry had originally been scheduled for this appeal. At that stage, Maghull Town Council (TC) had served a statement of case in accordance with Rule 6(6) of The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000. There was a broad measure of agreement between the three main parties, as set out in their statements of case, and at the case management conference they agreed that a hearing would be an appropriate procedure for the appeal. For that reason, and with no need for evidence to be formally tested through formal questioning by an advocate, I decided that the appeal should be considered at a hearing. The Town Council took a full part in the proceedings of the hearing, and I have continued to consider it as a main party in this appeal.
3. On the application form the location of the proposed development is given as land bounded by Poverty Lane to the south, a railway line to the west,

Whinney Brook to the north, and the M58 motorway to the east. At the case management conference, it was agreed that the location of the site should be referred to simply as land north-east of Poverty Lane, Maghull, and I have identified it accordingly in the appeal details above.

4. Full planning permission was originally sought for 830 dwellings. Subsequently this part of the proposal was amended to provide for 841 dwellings, and the application was considered by the Local Planning Authority (LPA) on that basis. It was agreed at the case management conference that the proposal should be described as follows: *a hybrid application seeking full planning permission for the demolition of existing buildings and the erection of 841 dwellings (C3), vehicular accesses from Poverty Lane, public open space and ancillary infrastructure; and outline planning permission for an older persons housing scheme (C2, C3) and ancillary infrastructure with all matters reserved.*
5. An environmental statement accompanied the planning application. I am satisfied that this statement meets the requirements of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011.
6. A planning agreement has been submitted in connection with the appeal proposal (Document H20). It contains obligations concerning the provision and management of open space, the flood relief channel, affordable housing, and financial contributions relating to monitoring, recreational pressure, education, healthcare, public transport, highway works, and the Leeds-Liverpool Canal.
7. A set of core documents was prepared for the hearing. Statements and documents submitted after the hearing opened are detailed in the lists appended to this decision.
8. The Town Council requested that the programme of site visits include Maricourt Catholic High School, which is situated on Hall Lane and Damfield Lane beyond the north-west end of Poverty Lane, and St Andrew's Church of England Primary School and Deyes High School, both of which are further away on Deyes Lane. Although I have seen the position of all three schools, it was not possible to be present during the normal start or end of the school day due to the restrictions on school attendance in force as a consequence of the covid-19 pandemic. However I am aware of the position of the schools in relation to the appeal site and, in my experience, I anticipate that more vehicle movements would normally occur around these establishments at the beginning and end of the school day than is currently the case.

## **Main Issues**

9. The appeal was made against the failure of the LPA to give notice of its decision on the planning application within the prescribed period. The planning application had previously been recommended for approval, but a decision had been deferred for preparation of a construction environmental management plan (CEMP) and an update on arrangements for early completion of the distributor road across the site. Subsequently the appeal was submitted, which the LPA resolved not to contest: in its statement of case it expressed the view that the proposal is acceptable in policy terms, and that planning permission should be granted subject to conditions and a planning agreement. The LPA also explained that it was working to secure a CEMP and

early completion of the distributor road. In its statement of case, Maghull TC stated support for the comprehensive development of the land east of Maghull (of which the appeal site forms part), it also stressed the importance of a co-ordinated approach to the delivery of infrastructure, referring to the flood relief channel, the distributor road, the routing of construction traffic, and phasing in relation to provision of a local centre.

10. Having regard to the representations of the parties, I consider that the main issues in this case are:
  - (i) Whether the proposed development including its construction, would include satisfactory proposals for vehicle movement, having regard to traffic flow, highway safety and the living conditions of existing residents.
  - (ii) Whether the proposed development would be consistent with policies in the Development Plan.
  - (iii) The effect of other considerations on the overall planning balance.

## **Planning policies**

### ***The Development Plan***

11. The Development Plan comprises the Sefton Local Plan (CD3.1) and Maghull Neighbourhood Plan (CD3.2). Those policies of most relevance to the appeal proposal concern the land east of Maghull. In the Local Plan, Policy MN3 identifies this land as a strategic mixed-use allocation. The appeal site forms much of the southern part of this allocation, the full extent of which is shown on the Policies Map (Document H8). Development of the land is intended to create a sustainable urban extension, and must be consistent with a masterplan. Components of the overall development are to include a minimum of 1,400 dwellings, small-scale commercial and retail development, a main park along Whinney Brook, and a distributor road (also referred to by parties as the spine road) running across the allocated land between School Lane in the north and Poverty Lane in the south. Part 6 of the policy includes a series of phasing requirements. This land is the subject of Policy MAG 6 in the Neighbourhood Plan, which requires the masterplan to include the distribution of land uses and a framework for the delivery of essential infrastructure.
12. A number of other policies are also of relevance to the proposed development. Policy MN1 of the Local Plan provides for the development of 11,520 new homes in Sefton between 2012 and 2030: housing allocations identified in Policy MN2 are one of the sources for meeting this requirement. In Policy MN2, site MN2.47 is the land east of Maghull, and has an indicative capacity of 1,400 dwellings. Housing policies HC1, HC2 and HC3 are concerned respectively to secure affordable housing, a mix of dwellings, and (as a general rule) a minimum density of 30 dwellings per hectare (dph).
13. Where appropriate, contributions will be sought to enhance and provide infrastructure to support new development (Policy IN1). Amongst other matters, Policy EQ4 seeks to minimise the risks of adverse impacts from pollution (amongst other matters), and proposals must not increase flood risk within the site or elsewhere (Policy EQ8). Policy NH2 is concerned with nature conservation: development which may adversely affect the integrity of internationally important sites should only be permitted where there are no



alternative solutions, there are imperative reasons of overriding public interest, and where suitable compensatory provision has been made. Proposals which affect protected species should include details of avoidance, mitigation and/ or compensation and management where appropriate.

14. The Neighbourhood Plan Proposals Map shows several proposed green corridors within the land east of Maghull. Policy MAG 5 requires that proposals should not have a significant adverse impact on the open character, visual amenity and purpose of these corridors.

### ***Supplementary planning documents***

15. Several supplementary planning documents (SPDs) have been referred to in the representations. Of most relevance in this case is the Land East of Maghull (LEM) SPD (CD 4.1). Policy LEM1 sets out requirements for preparation of the masterplan, and seeks an integrated approach to the management of flood risk across the allocation. Other policies are concerned with accessibility, flood risk, the main park along Whinney Brook, housing and infrastructure.

### ***Land East of Maghull Masterplan***

16. The Masterplan (CD4.2) was prepared by the Appellants and neighbouring landowners and adopted by the LPA in 2019. A concept masterplan (figure 6.1) shows the general location of housing, two older persons housing schemes, the business park, local shopping provision, the distributor road and public open space. Phasing proposals are also included: the appeal site covers parts of phases 1a (housing and part of the flood relief channel), 2 (the southern part of the distributor road), and 4 (housing). Phase 1a includes a maximum of 250 dwellings which may be served from Poverty Lane before completion of the distributor road.

### **Other development proposals**

17. An outline planning application for up to 855 homes, older persons' housing and a mixed-use local centre has been submitted for the area between School Lane and Whinney Brook, also within the allocated land east of Maghull and immediately to the north of the appeal site<sup>1</sup>. A decision on that application was deferred for the same reasons as for the appeal proposal. Subsequently, the application has been amended to a hybrid format, with full planning permission sought for the flood relief channel. The LPA advised that following amendment of the description of development, that application was the subject of a reconsultation exercise.
18. At the north-eastern corner of the land east of Maghull, planning permission has been granted for a petrol station, a drive-through café and two drive-through restaurants<sup>2</sup>, and construction work has commenced.

### **Reasons**

#### ***Vehicle movement***

19. The appeal proposal is for a major residential development. The effect of the appeal proposal on the highway network was modelled together with the

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<sup>1</sup> The site of this application is marked B on the plan at Appendix 2 to Document 13.2, the appeal site is marked A.

<sup>2</sup> The planning permission is Document H9 and a plan of this site is at Document H10.

proposed development on the land to the north (above, para 17), in a joint transport assessment (CD 6.1). It is common ground between the Appellants and the Council as Local Highway Authority (LHA) that the South Saturn model used and the detailed assessments of individual junctions provided a suitable means to assess the effects of traffic generated by the developments on the highway network.

### *Poverty Lane*

20. Two access points are proposed on Poverty Lane: the southern end of the distributor road would join the existing road at a new roundabout junction towards the south-east end of the site frontage, and a secondary access would be formed further along Poverty Lane to the north-west. These positions are consistent with Policy LEM3 of the LEM SPD.
21. That policy also says that the secondary access should only serve a limited number of dwellings, making reference to a maximum number of 50, whereas the number of dwellings served from this junction would be 71. Application of the trip rates agreed with the Council indicates that in the morning and afternoon peak periods, an additional 12 and 11 vehicle movements respectively would be generated by the higher number of dwellings served from this access<sup>3</sup>.
22. Summerhill Primary School is situated on the opposite side of Poverty Lane to the appeal site, and parking occurs along this side of the road at the beginning and end of the school day. On this stretch of the road there are several raised tables and speed cushions which have a role in reducing the speed of traffic past the school. The proposal would enhance features having a bearing on the speed of traffic movement along Poverty Lane: in particular the raised table close to the school access would be extended and a signalised crossing would be provided there<sup>4</sup>. Speed cushions and a raised table close to the position of the secondary access would be retained, and this access road would be about 70m away from the school entrance. It is intended that waiting restrictions would be imposed on each side of the new junction, and laybys for parking would be provided closer to the School entrance. The highway works proposed along Poverty Lane could be secured by a condition. Taking these factors into account, I do not consider that the use of the secondary access by vehicles serving an additional 21 dwellings would increase the prospect of conflict with road users going to and from Summerhill School. Nor would the proposed layout result in an inappropriate level of vehicle movements on any residential roads within the development. In this regard, I note that it is common ground between the Appellants and the LHA that, in principle, the secondary access would have an acceptable junction layout, and that it is acceptable in highway terms for it to serve 71 homes<sup>5</sup>.
23. The roundabout junction between the distributor road and Poverty Lane/ Leatherbarrows Lane has been designed in accordance with the Design Manual for Roads and Bridges, part CD116 - Geometric Design of Roundabouts. The model outputs indicate that for each of the three development scenarios (2021, 2027 and 2034), the junction would operate

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<sup>3</sup> CD13.4 tables 3.1 & 3.2.

<sup>4</sup> A plan showing the highway works on Poverty Lane is at CD13.4 Appendix 3.

<sup>5</sup> CD9.3 paras 1.6 & 1.7.

well within capacity with minimal queueing and delay at peak periods<sup>6</sup>. The Appellants' evidence that accident data from the Council indicates that there were no personal injury accidents on Poverty Lane in the vicinity of the appeal site in the period from 2015 to 2020<sup>7</sup> has not been disputed.

*The wider local highway network*

24. Junction 1 of the M58 motorway is adjacent to the north-east corner of the LEM allocation. A major upgrade of the junction has recently taken place with the construction of south-west facing slip roads. The Transport Assessment explains that this improvement will significantly increase the ability of the junction to cope with future demand, and a planning obligation would provide for a contribution of £432,500 towards the scheme, in line with Policy MN3(3c) of the Local Plan.
25. It is agreed between the Appellants and the LHA that most of the assessed junctions would operate satisfactorily with the development in place. Increased queueing and delays were, however, forecast at the junctions of Damfield Lane and Hall Lane with the A59: the A59 is a busy main road which runs through the built-up area about 1km to the west of the appeal site. The LHA is implementing an improvement scheme at the Damfield Lane junction, involving signalisation and modifications to the existing layout<sup>8</sup>. Signalisation is expected not only to facilitate the movement of vehicles from Damfield Lane through the junction, but to improve safety in respect of these movements and to make the junction safer to use for pedestrians. At the hearing the LPA's highways representative advised that the improvement scheme would provide the mitigation required at this junction.
26. At Hall Lane, it is proposed that the existing signal programme be altered to include a right turn phase for vehicles on the A59 north approach. In consequence, in 2027 with the development in place, queues are expected to reduce from 38 and 151 vehicles in the morning and afternoon peak periods to 15 and 8 vehicles respectively. The length of delays would also be significantly reduced<sup>9</sup>. It is agreed with the LHA that this alteration to the signal operation would mitigate the traffic impact of the appeal proposal and that of the development proposed on the adjacent site at this junction.
27. Further to the east on Hall Lane is a single-track bridge over the Leeds - Liverpool Canal. The LHA is satisfied that the proposed traffic management scheme<sup>10</sup>, restricting use of the bridge to eastbound traffic only, is acceptable in principle. Westbound traffic would be able to use Damfield Lane as an alternative route from its nearby junction with Hall Lane. I have no reason to disagree with the views expressed about the suitability of this element of the proposal.
28. The Transport Assessment concluded that there were no significant road safety issues on the surrounding highway network. There is no specific evidence that highway safety would be adversely affected in the vicinity of local schools, nor that problems would arise due to traffic using Molyneux Road, on the opposite side of Poverty Lane, as a 'cut through'. On the other

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<sup>6</sup> CD13.4 tables 9.1, 9.8 & 9.31.

<sup>7</sup> CD13.4 paragraph 4.37.

<sup>8</sup> Document H5.

<sup>9</sup> CD13.4 tables 9.30 & 10.3.

<sup>10</sup> CD13.4 Appendix 5.

hand, the scheme proposed for the A59/ Damfield Lane junction is expected to improve safety.

*Construction traffic*

29. The Appellants have calculated that, during the busiest part of the construction period, when work would include the building of the distributor road, there would be 290 movements of construction vehicles to and from the site<sup>11</sup>. Of these 68 would be heavy goods vehicle (HGV) movements. Concern has been expressed by Maghull Town Council, local residents and councillors about the route which would be used by construction traffic. A consultation exercise last year revealed support from the local community for construction traffic to use a haul route across the land to the north from School Lane: School Lane leads directly to junction 1 on the M58.
30. A framework CEMP for the land to the north refers to the provision of a haul route from School Lane to Whinney Brook for use by vehicles involved with construction of the flood relief channel and the distributor road (CD5.3). The CEMP also mentions that this haul route could potentially be used by construction traffic travelling to and from the appeal site, subject to agreement between the parties concerned. However no agreement has been reached, and the option of use of a haul route for construction traffic associated with the appeal proposal is not currently available.
31. It is estimated that the development of the site would take 5 years 10 months. Initially all construction traffic would gain access from Poverty Lane, but, following connection of the distributor road across the land to the north of Whinney Brook and through to School Lane (above, para 17), vehicles would be routed in that direction. There is no policy support for completion of the distributor road in advance of the 250 dwellings threshold in Policy MN3(6C) of the Local Plan, and, at the hearing, the Appellants' highways consultant suggested that the connection along the distributor road to School Lane could be available one year and eight months into the building programme, following completion of that number of dwellings. That view is based on the assumption that development of the land to the north, with its part of the distributor road, would occur concurrently with construction on the appeal site. That may not be the case, and given that the length of the distributor road on the adjacent land would be greater, I consider that the shortest time during which construction traffic would need to use Poverty Lane to reach the appeal site would be somewhat in excess of the Appellants' estimate. Construction of the distributor road within the appeal site is expected to take 6 months, and following its completion the number of daily construction traffic movements is expected to fall by eight, all of which would be HGVs.
32. Five possible construction routes have been suggested by the Appellants. Options 1 & 2 make use of roads through the countryside to the east of the site to establish a route between the M58 and Poverty Lane. Options 4 & 5 also link junction 1 and Poverty Lane, but leave the motorway along School Lane and pass through residential areas to the west of the appeal site. Option 3 is a route from the A59 and passes through residential areas to reach Poverty Lane.

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<sup>11</sup> CD13.4 Appendix 16 Annex 1.

33. Options 1 and 2 use the same roads for much of the routes. The Appellants' preferred eastern route is option 1, which involves the use of several narrow sections of road. In places the carriageway could be widened to allow HGVs to pass, but there is a 65m section of Giddygate Lane where this cannot be achieved<sup>12</sup>. Either temporary traffic signals or alternate priority signs would be needed, whilst maintaining access to a few houses on this stretch of road.
34. Of the western routes, option 3 has the disadvantage of not making use of the nearby motorway. Of the other two routes, option 5, along School Lane, Deyes Lane, Eastway and Poverty Lane, has sufficient width to accommodate articulated lorries throughout its length and is the Appellants' preferred route from this direction, whereas there are parts of Foxhouse Lane (option 4) where HGVs could not pass.
35. I have considered the information submitted by the Appellants concerning accidents, air quality and noise. The frequency of accidents on both the option 1 and option 5 routes during the five years 2015-2020 was low<sup>13</sup>, with most being slight in severity. The information on accidents does not indicate that one route is inherently less safe than the other. The air quality assessment has calculated the change in concentrations of nitrogen dioxide and particulate matter arising from construction traffic movement along the option 1 and 5 routes at a range of sensitive receptors to the west and east of the site, and has concluded that the significance in exposure would be negligible<sup>14</sup>. Similarly, the noise assessment finds that the noise levels from HGV movements would be below the lowest observable effect level<sup>15</sup>. There is no other detailed technical information on these matters before me.
36. Noise and air quality assessments are not the only factors to take into account in considering the effect of construction traffic movement on living conditions. The regular movement of HGVs and other construction traffic along residential roads over a relatively lengthy period before access would be available by means of the distributor road would be intrusive and a source of disturbance. The Appellants have calculated that there would on average be one HGV trip every ten minutes over an 11 hours working day, although it is intended that there would be no HGV movements during the times when children are arriving at and leaving Summerhill Primary School<sup>16</sup>. That also assumes that journeys would be regularly spaced over the construction period, whereas there may be periods when circumstances on site lead to higher (as well as lower) levels of daily movement. Although the housing along the eastern part Deyes Lane is on a direct route between the A59 and the motorway, that is not the case on Eastway south of its junction with Deyes Lane, and I am particularly concerned about the impact of construction traffic movements here. At the north-west end of Poverty Lane there is existing housing on both sides of the road, whereas vehicles coming from the east would only pass dwellings on the south-west side, a significant proportion of which are set further back from the road. I consider that use of the option 5 route by construction traffic would be unacceptable due to the adverse effect on the living conditions of local residents. Although not preferred options, I have

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<sup>12</sup> The highway works involved and the narrow section of Giddygate Lane are shown on a plan in CD13.4 Appendix 13.

<sup>13</sup> CD13.4 paragraphs 5.18-5.22.

<sup>14</sup> CD13.4 Appendix 18.

<sup>15</sup> CD13.4 Appendix 19.

<sup>16</sup> CD13.4 paragraphs 5.15 & 5.16, and Appendix 16.



reached the same view about the possible use of options 3 and 4 which would also involve construction traffic passing through residential areas. I appreciate that use of the option 5 route would avoid the need for highway works, whereas such works and a traffic management scheme would be necessary on the option 1 route which passes a few dwellings. However that circumstance does not justify the adverse impact on the living conditions of a much larger number of residents, which would result from the use of routes for construction traffic on the western side of the site.

#### *Conclusions on vehicle movement*

37. I conclude that the proposed development would not adversely affect highway safety or traffic movement. Conditions would be necessary to ensure the provision of the permanent highway works proposed on Poverty Lane and elsewhere on the local network, with the exception of the scheme at the A59/Damfield Lane junction which has already commenced. Insofar as the routing of construction traffic is concerned, as I have found that the use of routes through residential areas to the west would have an unacceptable effect on the living conditions of local residents, a condition concerning a CEMP should preclude journeys to and from that direction.

#### **Consistency with the Development Plan**

##### *Land east of Maghull*

38. The appeal proposal is for a large housing scheme on the southern part of the Land east of Maghull. This land is the largest allocation in the Local Plan, and has an indicative capacity of 1,400 dwellings: development of the appeal site for over 840 dwellings would be consistent with this allocation under Policy MN2. Policy MN3 is intended to guide the development of this strategic site Land east of Maghull, and accordingly it is the most important policy in the Development Plan for determining this appeal.

39. Part 3 of the policy requires a comprehensive approach to infrastructure provision. In accordance with this part of the policy, planning obligations would provide contributions towards the expansion of Summerhill Primary School, the recently built slip roads at junction 1 of the M58, and a bus service to run through the land east of Maghull. Part 3b refers to the provision of a main park within the allocated land. This is to be provided along Whinney Brook, and the proposal would provide that part of the park within the appeal site, on the southern side of the watercourse.

40. The proposal would also comply with the relevant provisions of part 5 of Policy MN3, which specifies components of the overall development. It would contribute towards the minimum number of 1,400 dwellings, including affordable housing, and would provide one of two older persons housing schemes (part 5a). Part 5b concerns provision of the main park on either side of Whinney Brook, to which I have already referred. The landscape masterplan (CD1.58) includes proposals for trees and buffer planting to the M58, in accordance with part 5e of the policy. Part 5f requires the layout to provide for a distributor road and a bus route across the site. The southern section of the distributor road forms part of the appeal proposal, and it is intended that the bus route would cross the land east of Maghull using this road. Footpaths within the main park would provide connections to other parts of the allocated land, and a new footway/ cycleway along Poverty Lane

would provide links to the primary school and towards public footpath No 13 on the eastern side of the site. Provision of the footway/ cycleway could be secured by a condition. A flood relief channel would be formed along Whinney Brook to manage flood risk (below, paras 45-47), in compliance with part 5h, and management arrangements for public open space would be the subject of a planning obligation (part 5i refers).

41. The final part of Policy MN3 is concerned with phasing requirements. Maghull North railway station and the south-west facing slip roads at junction 1 of the M58 have already been provided. Parts 6c, 6d and 6f place limits on the amount of housing which should come forward before completion of the distributor road, construction of the access road to the business park, the provision of servicing and landscaping at the business park, and the local shopping provision being made available for occupation. These restrictions could all be the subject of conditions.
42. Insofar as the Neighbourhood Plan is concerned, the appeal proposal would respect the green corridors shown on the Proposals Map and referred to in Policy MAG 5. Policy MAG 6 sets out requirements for the masterplan, and that document has been prepared and adopted.

#### *Housing policies*

43. Under Policy HC1, affordable housing should be provided at a level of 30%. The text of the policy refers to the measurement of provision by bedspaces, but the assessment is now made on the basis of dwellings. This change and a change in tenure split are supported by part 11 of the policy which provides for adjustments in implementation having regard to changes in national guidance and in the Borough's requirements. The scheme would provide 32% of dwellings and 30% of bedspaces as affordable accommodation. Reflecting the 2019 Strategic Housing Market Assessment for Sefton, the tenure split sought has been adjusted from 80% social/ affordable rent and 20% intermediate housing to 67% social/ affordable rent and 33% affordable home ownership. The planning obligation concerning affordable housing is consistent with this requirement. Affordable housing would be distributed throughout the development. Although some groupings would comprise more than the six dwellings specified in the policy, bearing in mind the preferences of registered providers and the amount of affordable housing to be provided, I agree with the LPA that the distribution of affordable housing proposed is reasonable.
44. The proposed development would comply with Policy HC2 concerning the mix of market dwellings, and the average density of about 34 dwellings per hectare (dph) would exceed that of 30dph in Policy HC3.

#### *Flood risk*

45. Policy EQ8 is concerned with minimising flood risk generally, and reference to the management of flood risk on the Land east of Maghull is made in Policy MN3. Parts of the appeal site adjacent to Whinney Brook are currently within flood zones 2 and 3 where there is a medium and high risk of flooding<sup>17</sup>. The Flood Risk and Drainage Assessment records that a pond was constructed about 20 years ago adjacent to the watercourse to address localised flooding:

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<sup>17</sup> CD 7.2 figure 5.

however I heard from a local councillor that there was water on the site last year. Flooding also occurs downstream of the site, to the west of the adjacent railway line.

46. It is intended to form a flood relief channel along Whinney Brook. As a consequence of the remodelling of this part of the site, none of the proposed dwellings would be situated in flood zones 2 or 3. The outflow to the west through a 1200mm diameter pipe orifice would have the benefit of reducing the flood risk downstream of the site<sup>18</sup>. The flood relief channel has been designed to retain the water from events up to and including the 1 in 1,000 year flood event<sup>19</sup>. The storage volume of the flood relief channel is such that it would be designated as a reservoir, and subject to requirements for regular inspection and maintenance.
47. Maghull Town Council is concerned that conditions and obligations should be in place to ensure construction of the flood relief channel and its future maintenance. A planning obligation would provide for a flood relief channel management company and a management and maintenance scheme. Although a separate obligation in the agreement is concerned with the establishment of a body for the management of the open space within the site, the Appellants explained that it was their intention to have a single management company for these functions, as advocated by the Town Council. Conditions have been suggested concerning approval of the detailed design of the flood relief channel prior to the commencement of most other development, completion of that work prior to occupation of any of the dwellings, and the appointment of an engineer to make annual inspections. I am satisfied that, with the safeguard of conditions on these matters and the planning obligation concerning the flood relief channel management and maintenance scheme, the proposed development would effectively manage flood risk and comply with Policies EQ8 and MN3 (part 5h) of the Local Plan.

#### *Nature conservation*

48. Policy NH2 of the Local Plan seeks to safeguard important nature conservation sites and protected and priority species. There is a common pipistrelle bat day roost in a building at Summerhill Farm, which would be lost with the demolition of the buildings at the farmstead. Prior to demolition, three bat boxes would be installed on trees which are to be retained within the site, and these would be used to provide roosting for any bats found during an inspection of the building. It is also intended to incorporate a bat tube in a new building in the vicinity of the farmstead. An updated survey in 2020 also found three trees with moderate suitability for roosting bats on the appeal site and one with low suitability<sup>20</sup>. The latter (tree T37) would be removed as part of the development, and a method statement for its removal, to avoid adverse impacts on bats which may be found, is proposed. With the safeguard of conditions concerning the inspection of buildings at Summerhill Farm, the installation of bat boxes and a bat tube, and a method statement in respect of tree T37, I do not consider that the appeal proposal would have a damaging effect on the use of the appeal site by bats.

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<sup>18</sup> Details of the existing and post development outflow are given in CD 7.6 table 1.

<sup>19</sup> CD7.6 page 5.

<sup>20</sup> CD8.38 tables 4 & 5.



49. There is evidence of water vole on Whinney Brook, principally at the western end of the watercourse within the appeal site. Formation of the flood relief channel would require the displacement of water voles, but the opportunity would be taken to reprofile a section of the watercourse to provide an improved habitat for the return of this species<sup>21</sup>. These works, which could be the subject of a condition, would be beneficial to the medium and long-term health of the water vole population in the area.
50. The appeal site is within the buffer zone of the Formby Red Squirrel refuge and provides suitable habitat for this species. Consequently, although no sightings of this protected species or evidence of activity have been recorded<sup>22</sup>, a condition requiring further survey work prior to development, and mitigation if the species is found to be present at that stage, would be appropriate. Common toad was recorded within the site along Whinney Brook<sup>23</sup>. This is a priority species, and, as part of the work to create the flood relief channel, a pond suitable for common toad would be formed<sup>24</sup>. The mitigation proposed could be secured by means of a condition.
51. With conditions to secure mitigation in place, I am satisfied that the appeal proposal would not have an adverse effect on protected and priority species, and in this respect there would be no conflict with Policy NH2 of the Local Plan.
52. There is a number of European sites of nature conservation interest in the surrounding area. Merseyside Environmental Advisory Service (MEAS) has advised that without mitigation, the proposed development would be likely to have significant effects on a qualifying species of the Martin Mere and Ribble & Alt Estuaries Special Protection Area (SPA) and Ramsar site, namely pink-footed goose, and on qualifying features of the Sefton Coast Special Area of Conservation (SAC). The adjacent site to the north of Whinney Brook has been found to support pink-footed goose: construction activity on the appeal site, ahead of that on the land to the north, would be expected to cause disturbance to and displacement of pink-footed geese. Moreover, the development could result in an increased number of recreational trips to the Martin Mere and Ribble & ALT Estuaries SPA and Ramsar site, about 8.3km from the Land east of Maghull, which would be a further source of disturbance. The qualifying features of the Sefton Coast SAC include a range of dune habitats. This area could also see increase recreational usage, since, at 8.3km at its closest point, it is within travelling distance for day trips from the appeal site. Dunes are vulnerable to trampling, and the presence of visitors may also cause disturbance to waterbirds using these habitats.
53. In view of the potential of the potential for the development to contribute to an adverse effect on these European sites an appropriate assessment is required. The Appellants' exercise argues that, as there are no records of the geese using the Land east of Maghull prior to the 2015-16 survey and the main concentrations of the species are considered to be further to the north-west, the area adjacent to the appeal site is not critical for pink-footed geese feeding<sup>25</sup>. I note also that it is estimated that about 320 birds could be

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<sup>21</sup> CD8.23 sections 3 & 4.

<sup>22</sup> CD8.12 section 4.

<sup>23</sup> CD8.11 paragraph 4.3.1 & figure 4.

<sup>24</sup> See plan ref SK029 revision P2.

<sup>25</sup> CD8.24 section 8.

displaced, whereas during winter around 20,000 are usually present in south and west Lancashire. Nevertheless, mitigation is proposed. In the first instance, efforts would be made to avoid construction work within 200m of the adjacent land from October to January when geese are most likely to be present. Should it be necessary to undertake construction works during that time of the year, an area of land within ranging distance will be planted up with a suitable crop for feeding purposes, or supplementary feeding would be provided on this land<sup>26</sup>. A condition has been suggested to secure this mitigation.

54. Taking into account the destination of leisure visits from a Natural England survey, and that a proportion of residents on the appeal site would have moved from a location where they were already no further than the average trip length for leisure purposes, the Appellants have calculated that the development could lead to an additional 228 visits per week to the Sefton Coast SAC<sup>27</sup>. Reference is made to an increase equivalent to 0.2% of the overall number of recreational visits to the Sefton Coast. Whilst the figures may appear relatively modest, incremental increases in activity have the potential to cause a harmful cumulative effect, and I agree with MEAS that mitigation is, therefore, required to avoid a potentially damaging impact. The Appellants contend that the main park would play a role in relieving pressure on the Sefton Coast, and additional measures involve a contribution of £150,000 towards signage, information provision and towpath improvement in connection with the nearby Leeds-Liverpool Canal, and £13,346.67 towards the ranger service at the SAC: these contributions would be provided under planning obligations. It is common ground between MEAS and the Appellants that with mitigation measures in place there would be no likely significant effects on European sites, and Natural England shares this view (CD8.36).
55. Having undertaken this appropriate assessment, I conclude that, with the mitigation measures proposed in place, the development of the appeal site would not adversely affect the integrity of the nearby important nature conservation sites, and that in this respect it would not conflict with Policy NH2 of the Local Plan.

*Potential for pollution of Whinney Brook*

56. Maghull Town Council is concerned about the potential for pollution of Whinney Brook during construction of the residential development. I agree with the Appellants that this is a matter which is capable of being addressed by a CEMP, as demonstrated by the version dated July 2020<sup>28</sup>, and there would be no conflict with Policy EQ4 of the Local Plan in this respect.

*Conclusions on the Development Plan*

57. Apart from a few detailed provisions concerning the type and distribution of affordable housing, the appeal proposal would comply with relevant policies in the Development Plan. In any event, the proposal is consistent with the updated approach to implementation of the approach to tenure split and affordable housing would be distributed throughout the site. Importantly, the proposal would play a major role in bringing forward a key site to meet

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<sup>26</sup> CD8.24 section 8, CD8.20.

<sup>27</sup> CD8.24 paras 8.30-8.39.

<sup>28</sup> CD1.98 section 2.

Sefton's development requirements. I conclude that the proposed development would comply with the Development Plan considered as a whole.

### ***Other considerations***

#### *The LEM SPD*

58. I have already referred to the 71 dwellings which would be served from Poverty Lane. Although this would exceed the number of 50 specified in Policy LEM3 of the SPD, it is not an arrangement which would adversely affect highway safety or hinder traffic movement (above, paras 21 & 22). Otherwise, the arrangements for pedestrian and cycle links, for addressing flood risk, creating a main park, providing a range of house types including accommodation for older persons, and contributing towards infrastructure would be consistent with policies in the SPD.

#### *The LEM Masterplan*

59. The disposition of the main elements of the proposal – the distributor road, the residential area and older persons' housing, the main park and flood relief channel would be consistent with the concept masterplan. Conditions to limit the number of occupied dwellings to 250 until the distributor road is completed, to require completion of the flood relief channel prior to the occupation of any dwellings, and to limit the number of dwellings completed relative to delivery of the local shopping provision and landscaping around and access and servicing to the business park, would all be consistent with the phasing arrangements in the Masterplan

#### *Utility of the main park*

60. Within the appeal site, the flood relief channel would be largely co-extensive with the main park, and it would include footpaths and open space intended for public access. A local councillor questioned the utility of this area as open space in view of its role in containing flood water. Whilst the Appellants' acknowledge that it is not possible to be precise about the length of time that publicly accessible areas would be under water, the Flood Risk and Drainage Assessment Addendum No 2 (CD7.6) anticipates that flood waters would rise to this level during flood events of greater than in 1 in 10 years, and it is calculated that water would extend over areas of public open space for about 30 hours on such occasions. I agree that after the water subsides, the ground would remain soft for a time, but the footpaths should be capable of use more quickly, as they would be set 150mm above ground level<sup>29</sup>. Moreover, it is a clear intention of Policy MN3 (and of Policy LEM5 of the LEM SPD and the masterplan) that the main park should be established along Whinney Brook, a location where flood waters would inevitably need to be accommodated.

#### *Planning obligations*

61. I have already referred to planning obligations concerning affordable housing, the flood relief channel, and to financial contributions to improvements to the expansion of Summerhill Primary School, the subsidy of a bus service through the site, measures to encourage leisure trips to the Leeds-Liverpool Canal, the ranger service at the Sefton Coast SAC, and the M58 slip roads.

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<sup>29</sup> See flood relief channel sections, CD1.78.

62. The development of this large housing site would lead to greater use of healthcare facilities in the area, and Policy LEM9 of the LEM SPD requires a contribution towards healthcare provision. An obligation would provide £495,991 as a contribution towards a new healthcare facility in Maghull. I am satisfied that this contribution is necessary and reasonably related in scale and kind to the development of the land north-east of Poverty Lane. It is important that public open space, including the main park referred to in Policy MN3, is not only provided, but maintained thereafter, and this would be secured by the terms of the agreement.
63. The agreement also includes two contributions towards monitoring costs; one towards the cost of monitoring the obligations generally and a second specifically to fund a review and assessment of traffic flows in the surrounding area. Notwithstanding its inclusion in the agreement, the Appellants made it clear at the hearing that they do not consider that the general monitoring contribution meets the statutory tests. Paragraph 23b-036 of Planning Practice Guidance provides for monitoring fees: it explains that fees could be a fixed percentage of the value of the obligations, a fixed amount, or be set by some other method. In the case of proposals for full planning permission, the LPA seeks a general monitoring contribution of 15% of the application fee. The planning agreement includes obligations dealing with a range of matters, several of which, relating to the provision and management of open space, the provision and maintenance of the flood relief channel, and arrangements for affordable housing are not only relatively complex, but involve ongoing commitments beyond the 5-6 years build programme of the development. In these circumstances, I consider that the general monitoring contribution is not only directly related to the development, but necessary to make it acceptable in planning terms, and fairly and reasonably related to it in scale and kind.
64. I note that the highway monitoring fee is intended to contribute to a specific exercise involving a review of traffic flows. It does not involve the monitoring of an obligation, and its purpose would not, therefore, be covered by the general monitoring contribution. This is a major housing scheme, and it is important for the LHA to be aware of the actual implications on the local highway network. I am satisfied that the obligation for payment of a highway monitoring fee is appropriate and meets the statutory tests.
65. I find that the statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations are met, and that the provisions of the planning agreement are material considerations in this appeal.

### **Conditions**

66. An extensive list of possible conditions was discussed at the hearing (CD10.1). Conditions concerning highway works, a CEMP, footway and cycleway links, phasing of the development, the flood relief channel, and mitigation measures in respect of protected and priority species and European protected sites have already been referred to in this decision, and each of these conditions would be necessary for the development to proceed.
67. A condition specifying the relevant drawings would be important as this provides certainty. Given the size of the proposed development, a plan of sub-phases, relating to that part of the proposal for which full planning permission is sought (F), should be submitted for approval to ensure that expansion of the built-up area occurs in a satisfactory manner.

68. To ensure that the development would be in keeping with its surroundings conditions would be required concerning tree protection measures, external lighting and levels in respect of the proposals for both outline (O) and full planning permission, and concerning materials, boundary treatment and landscaping in respect of the proposal for full permission only.
69. Reflecting paragraph 61 of the NPPF concerning the provision of housing needed for different groups, a condition would be necessary to require 20% of market dwellings to meet building regulation requirements for accessible and adaptable dwellings (F). In the interest of highway safety, visibility splays would be required at junctions within the site and parking and turning space should be provided (F). In line with policy objectives to promote more sustainable modes of travel, travel plans (F & O) and details of cycle parking (O) should be submitted for approval, and for wider reasons of sustainability, broadband infrastructure and electric vehicle charging points should be provided (F & O).
70. Paragraph 170(d) of the NPPF encourages the provision of net gains for biodiversity. To this end landscape and ecological management plans should be submitted for approval (F & O), and other conditions would be required concerning the timing of work to trees and hedgerows (F & O), the provision of bird boxes (F), and swallow nesting habitat (F & O). Invasive species have been recorded within the site, and a method statement to address these plants would be required (F). It would be important to provide information promoting the use of alternative greenspace to sensitive European sites, and to assess the effect of measures to minimise recreational pressure on important nature conservation sites, and conditions would be required for this purpose (F & O).
71. To ensure that the site would be satisfactorily drained, a strategy and scheme for the disposal of foul and surface water should be submitted for approval (F & O). Water supply infrastructure exists within the site, and it would be important to ensure that this is protected from damage (F & O). In order to ensure a satisfactory environment for future residents, it would be necessary for glazing and ventilation in dwellings to meet the approved specifications (F), to submit a scheme to provide protection from traffic noise (O), and to ensure that any contaminated areas are appropriately remediated (F & O).
72. To provide an opportunity for the recording and recovery of items of archaeological interest, schemes of archaeological investigation should be undertaken, and local employment schemes would also be important to provide support to the local economy (F & O).
73. The suggested condition precluding access to the motorway would be unnecessary since there would be no prospect of direct access being obtained from residential roads to a motorway.
74. Several of the suggested conditions would be pre-commencement conditions. These are set out in a Regulation 2(4) notice from The Planning Inspectorate (Document H21), and the Appellants have agreed to conditions on these matters (Document H23).

## Conclusions

75. I have found that the appeal proposal would comply with the Development Plan, considered as a whole. Overall, it would also be consistent with the LEM SPD and the LEM Masterplan, and the development would contribute to the implementation of the planning policies for one of the Borough's strategic site. In addition to making a significant contribution to the delivery of housing in Sefton, the proposal would involve other specific benefits in the improvement of water vole habitat and a reduction in flood risk in the area to the west of the appeal site.
76. Subject to the imposition of conditions and the planning obligations, which provide for a range of mitigation measures, no material harm would be caused by the proposed development. In this regard, it is important that the CEMP, which would be secured by condition, precludes the use of routes for construction traffic through the residential areas to the west of the site, in order to avoid unacceptable effects on the living conditions of local residents.
77. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

*Richard Clegg*

INSPECTOR



## **Schedule 1 - Conditions**

### **Conditions relating to both the full and outline planning permissions**

- 1) The development shall be carried out in accordance with the plans and documents listed in schedule 2.
- 2) No more than 250 dwellings shall be occupied until the distributor road between Poverty Lane and School Lane, as shown on drawing A083347-91-18-C001-rev-E (or a subsequently approved version thereof), is constructed and available for use by the public.
- 3) No dwellings shall be occupied within the development such that more than 749 dwellings are occupied within any part of the Land East of Maghull allocation (as identified by Policy MN2 of the Sefton Local Plan) before the local shopping provision required by Policy MN3(6f) of the Sefton Local Plan has been constructed and made available for occupation.
- 4) No dwellings shall be occupied within the development such that more than 499 dwellings are occupied within any part of the Land East of Maghull allocation (as identified by Policy MN2 of the Sefton Local Plan) before the access and servicing into the business park, and the landscaping framework between the business park and the residential areas have been implemented in accordance with Policy MN3(6d) of the Sefton Local Plan.
- 5) No development shall take place until a detailed remediation strategy to bring the land to a condition suitable for the proposed use by removing any unacceptable risks and the relevant pollutant linkages identified in the *Land off Poverty Lane, Maghull Phase I Geo-Environmental Assessment by Arcadis of March 2017 (ref 3670810002)*, the *Summerhill Farm, Poverty Lane, Maghull Phase II Assessment of July 2017 (ref 37158100)*, and the *Addendum Gas Monitoring Report of October 2017 (ref 37158100\_02)* 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 and commencement of its use.

In the event that the proposed remediation works in some areas involve the provision of a ground cover system, a plan indicating the existing and proposed external ground levels on the site shall be submitted for approval to the local planning authority.

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

ground cover system only) shall be occupied prior to the approval of the verification report by the local planning authority.

- 6) In the event that previously unidentified contamination is found when carrying out the approved development, immediate contact must be made with the local planning authority and works must cease in that area. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be submitted to and approved in writing by the local planning authority.

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

- 7) The development shall not be occupied until a detailed scheme of highway works, together with a programme for their completion, has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- i) The enhancement of the Maghull No 13 Footpath to a shared cycleway/footway with lighting.
  - ii) The construction of a three-arm roundabout junction on Poverty Lane.
  - iii) The construction of a priority junction to from a secondary access on Poverty Lane.
  - iv) Traffic calming measures on Poverty Lane in the vicinity of Summerhill Primary School.
  - v) The construction of a continuous pedestrian footway along the north-eastern side of Poverty Lane across the frontage of the site.
  - vi) The relocation of two existing bus stops on Poverty Lane.
  - vii) The introduction of a pedestrian crossing on Poverty Lane in the form of a set of dropped kerbs and tactile paving in the vicinity of the secondary access.
  - viii) The widening to 2m of a section of existing footway on the south side of Poverty Lane east of the railway bridge.
  - ix) The introduction of a Toucan crossing on Poverty Lane outside Summerhill Primary School.
  - x) The relocation of two street lighting columns on the approach to the railway bridge to ensure that the footway on the southern side of Poverty Lane is well lit.
  - xi) Amendments to the A59/Hall Lane signal controlled junction to provide increased capacity for right turning movements from the A59 in a northwards direction.
  - xii) Introduction of measures to enable the Hall Lane canal bridge to be one way for vehicular traffic.
  - xiii) Introduction of the required measures including signage and lineage to support an amended traffic regulation order to extend the 30mph zone on Poverty Lane to the southeast of the roundabout junction with the distributor road.



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

- 8) Prior to the demolition of the existing buildings at Summerhill Farm, three bat boxes (2f Schwegler or equivalent) plus one winter box (Schwegler 1FS or equivalent) shall be installed on retained and undisturbed trees. The boxes shall be installed at least 3m from the ground, facing north, south-east and south-west respectively and retained thereafter.
- 9) Prior to the demolition of buildings at Summerhill Farm, a search of each building shall be undertaken by a licensed bat ecologist and features such as slipped lifted roof slates and ridge tiles shall be removed. In the event that bats are found during the works, they shall be allowed to disperse naturally or be transferred to a bat box by a licenced bat ecologist.
- 10) During construction, a Schwegler (or equivalent) bat tube shall be placed in a new dwelling in the vicinity of the former Summerhill Farm buildings. The bat tube or replacement thereof shall be retained thereafter.
- 11) All works to existing on-site trees and hedges must be undertaken outside of the bird nesting season of 1 March to 31 August inclusive.
- 12) Prior to the occupation of the first dwelling, full details of an information pack to be provided to residents promoting the use of suitable alternative natural greenspace and highlighting the sensitivity of European sites, with particular regard to the Sefton Coast Special Area of Conservation, shall be submitted to and approved in writing by the local planning authority. The agreed information must be provided to future residents on first occupation of each dwelling thereafter.
- 13) No more than 800 dwellings shall be occupied until details of an annual occupant survey for the monitoring of European site strategic access management and monitoring measures and suitable alternative natural greenspace use by residents of the site has been submitted to and approved in writing by the local planning authority.  

Within 12 months of its approval, the survey shall be carried out and the results provided to the local planning authority for information purposes. Subsequent surveys shall be undertaken for the next four years and the results submitted to the local planning authority prior to the completion of 12 months from the date of the previous submission.
- 14) No construction shall commence (including any earthworks) until details of the means of ensuring the water supply infrastructure laid within the site is protected from damage as a result of the development have been submitted to and approved by the local planning authority in writing. The details shall include a survey which identifies the location of the infrastructure and outlines the potential impacts and any mitigating measures to protect and prevent damage to the water supply infrastructure both during construction and during the operational life of the development. Any mitigation measures shall be implemented in full in accordance with the approved details and retained thereafter.
- 15) No development shall take place (other than demolition, site clearance or remediation) until an updated drainage strategy for foul and surface water based on sustainable drainage principles has been submitted to and approved in writing by the local planning authority.

The updated foul and surface water drainage strategy shall include the following details:

- i) The proposed foul connection points to the existing public sewerage infrastructure for the site.
- ii) No surface water, highway drainage or land drainage to discharge directly or indirectly into the existing public sewerage system.
- iii) Any drainage infrastructure connections (foul and surface water), including the volume of flows between different phases and sub-phases of the development.
- iv) Identification of any parts of the site where foul pumping is necessary. The number of pumping stations throughout the site should be minimised.
- v) Updated storage volume calculations.
- vi) Micro drainage simulations for each system with an outfall which must be surcharged to the actual calculated top water level of the receiving watercourse for the 1 in 2 year storm, 1 in 20 year storm, 1 in 30 year storm, 1 in 100 year storm, 1 in 100+40% climate change storm and the 1 in 100+ 70% storm events. If flooding is encountered in the simulations a flood routing plan must be provided to confirm where any excess flood water will be stored until the system recovers.

In the event that the updated storage volume calculations demonstrate that additional flood storage is required this will need to be accommodated on site.

- 16) No development shall take place (other than demolition, site clearance or remediation) until a detailed scheme for the method of flood mitigation and disposal of surface water within the whole of the flood relief channel (both on-site and off-site), including details of construction, a programme for implementation, and subsequent management and maintenance arrangements, has been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the *Proposed Residential Development Land north of Poverty Lane, Maghull Flood Risk and Drainage Assessment by WYG Engineering Ltd of October 2017 (ref A083347 rev A), Addendum No 1 of October 2018 (ref A083347), Addendum No 2 of June 2019 (ref A083347)*, and the updated foul and surface water drainage strategy required by condition No 10. The development shall be carried out in accordance with the approved scheme and programme.
- 17) Prior to occupation of the first dwelling, written notice shall be submitted to the local planning authority confirming that:
  - i) The works approved pursuant to condition No 16 have been completed.
  - ii) The whole of the flood relief channel has been designated as a reservoir by the Environment Agency.
  - iii) A panel engineer has been appointed to undertake annual inspections of the newly formed reservoir structure in accordance with the requirements of the Reservoir Act 1975.
- 18) The tree protection measures outlined in the approved *Arboricultural Impact Assessment (Report No: 7707.001 v3 July 2019)* shall be

implemented in full throughout the period of demolition, remediation and construction.

**Conditions relating to the full planning permission only**

- 19) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
- 20) No development shall take place in any phase until a more detailed phasing plan identifying sub-phases, and prepared in accordance with Section 9 of the Land East of Maghull Masterplan, has been submitted to, and approved in writing by, the local planning authority. The development shall be built out in accordance with the approved detailed phasing plans.
- 21) No development shall commence within any phase or sub-phase, including any works of demolition, until a construction environmental management plan (CEMP) for that phase or sub-phase has been submitted to and approved in writing by the local planning authority. The CEMP shall include:
  - i) The proposed times construction works shall take place.
  - ii) Details of temporary construction access.
  - iii) Parking arrangements for vehicles of site operatives and visitors.
  - iv) Arrangements for the loading, unloading and storage of plant and materials.
  - v) The location of the site compound.
  - vi) Wheel washing/road sweeping measures.
  - vii) Measures to control the emission of dust and dirt during construction.
  - viii) Measures to control the emission of noise during construction.
  - ix) Details of external lighting to be used during construction.
  - x) The name and contact details of person(s) accountable for air quality and dust issues.
  - xi) A programme for issuing information on construction activities to the occupiers of nearby dwellings.
  - xii) A construction traffic routing plan which shall exclude the use of residential roads to the west of the site.
  - xiii) The times of the movement of heavy goods vehicles to and from the site.
  - xiv) A site waste management plan.
  - xv) Details of any piling and the days and times when piling activity is proposed.
  - xvi) Details of measures to avoid off-site flooding during site remediation and construction.
  - xvii) Details of earthworks and landscaping adjacent to the M58 motorway and the means for protection of the boundary fence to the motorway during the construction period.

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

- 22) No development shall take place within any phase or sub-phase until a detailed landscape and ecological management plan for that phase or sub-phase, based on the *Land north of Poverty Lane and Land south of School Lane, East Maghull Landscape and Biodiversity Management Plan by The Environment Partnership of July 2017 (ref 6265.04.001 v3)*, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved landscape and ecological management plan.
- 23) No development shall take place within 200m of Whinney Brook during the months of October to January inclusive, nor shall any occupation of dwellings take place within 200m of Whinney Brook, until the mitigation measures set out in the *Pink-Foot Goose Mitigation Strategy ref 5795.006 v3 of August 2018* have been put in place.
- 24) Measures to mitigate potential impacts on water voles, as set out in paragraphs 4.15 to 4.23 of the *Water Vole Mitigation Strategy (ref: 5795.005 v6 September 2018)*, shall be implemented in accordance with a programme which has been submitted to and approved in writing by the local planning authority.
- 25) Prior to the commencement of removal works to Tree T37 (as shown in drawing G5795.013A of the *Bat Roost Assessment 2020 ref: 5795.013 v4 November 2020*), a method statement shall be submitted to and approved in writing by the local planning authority setting out the working methods to avoid impacts on roosting bats that may be encountered. The approved details shall be implemented in full.
- 26) No works to form the flood relief channel along Whinney Brook shall be commenced until a common toad mitigation strategy, including details of pond profiles and planting and a programme for implementation, has been submitted to and approved in writing by the local planning authority. The mitigation works shall be carried out in accordance with the approved strategy and programme.
- 27) Prior to commencement of development within any phase or sub-phase, a red squirrel survey for that phase or sub-phase shall be undertaken, and the results of the survey submitted to the local planning authority. Should red squirrel be recorded within that phase or sub-phase, a mitigation strategy, including a programme for implementation, shall be submitted for the approval in writing by the local planning authority. The mitigation works shall be carried out in accordance with the approved strategy and programme.
- 28) Prior to the occupation of dwellings within a particular phase or sub-phase, details of bird boxes to include their number, type and location as well as timing of installation, shall be submitted to and approved in writing by the local planning authority and implemented in accordance with the approved details.
- 29) No development (including demolition, ground works and site clearance) shall take place within any phase or sub-phase until a method statement to mitigate potential impacts on swallow nesting habitat within that phase or sub-phase has been submitted to and approved in writing by the local planning authority. The method statement shall include: measures to avoid harm to swallows, the extent and location of proposed swallow nesting provision, and a programme for implementation of replacement

swallow nesting provision. The method statement shall be implemented in accordance with the approved details and programme.

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

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

- 31) No development shall take place within any phase or sub-phase (other than demolition, site clearance or remediation) until detailed schemes (including ground and finished floor levels above ordnance datum) for the disposal of foul and surface water for that phase or sub-phase have been submitted to and approved in writing by the local planning authority.

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

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

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

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

- 32) No dwelling within a particular phase or sub-phase shall be occupied until a validation report demonstrating that the necessary connections for the drainage scheme have been carried out in accordance with the details approved under condition No 31 has been submitted to and approved in writing by the local planning authority.

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

- 34) No development shall take place within any phase or sub-phase that contains a potential infilled pond, as referred to in the *Land off Poverty*

*Lane, Maghull Phase 1 Geo-Environmental Assessment by Arcadis of March 2017 (ref 3670810002)*, until additional drilling (windowless sampling) and further trial pitting has been undertaken by competent persons at the location of the potential pond and a report of the findings has been submitted to and approved in writing by the local planning authority. The report shall include an appraisal of any remediation options, and a programme for implementation. The development of that phase or sub-phase shall be carried out in accordance with the approved remediation measures and programme.

- 35) No development shall take place within any phase or sub-phase until a written scheme of investigation for archaeological work, including a programme for implementation, within that phase or sub-phase has been submitted to and approved in writing by the local planning authority. Archaeological investigation shall be carried out in accordance with the approved scheme and programme.
- 36) No development shall take place within any phase or sub-phase until details of a local construction employment scheme have been submitted to and approved in writing by the local planning authority. The scheme shall explain how reasonable endeavours shall be made to use local suppliers, contractors and labour during the construction phase of the development. The development shall be carried out in accordance with the approved scheme.
- 37) Prior to the occupation of any dwellings within a particular phase or sub-phase, infrastructure for electric vehicle charging points shall be installed in accordance with a scheme which has been submitted to and approved in writing by the local planning authority.
- 38) Details of full fibre broadband connections to all proposed dwellings within a particular phase or sub-phase shall be submitted to and approved in writing by the local planning authority. The infrastructure serving a dwelling shall be installed prior to occupation of that dwelling and made available for use immediately on occupation of that dwelling in accordance with the approved details.
- 39) The materials to be used in the construction of the dwellings shall be in accordance with drawing numbers SK438-MAT rev B and PLM.MS.01 revision A.
- 40) The boundary treatments shall be completed in accordance with drawing numbers SK438-BP-01D, PLM.302.1 rev B and PLM.302.02 rev C before the dwelling to which they relate is occupied.
- 41) No construction above finished floor level of the dwellings within a particular phase or sub-phase shall take place until details of materials to be used in the construction of all road surfaces, footways and parking areas, including kerbs, within that phase or sub-phase have been submitted to and approved in writing by the local planning authority. The surfaces shall be constructed in accordance with the approved details.
- 42) No construction above finished floor level of any dwelling within a particular phase or sub-phase shall take place until a detailed scheme of street lighting within that phase or sub-phase, alongside a timetable for its implementation, have been submitted to and approved in writing by the local planning authority. The approved scheme shall comply with the



- requirements of BS5489 and shall be implemented in accordance with the approved timetable.
- 43) No dwelling within a particular phase or sub-phase shall be occupied until a detailed scheme of lighting within the proposed public open space within that phase or sub-phase has been submitted to and approved in writing by the local planning authority. The approved scheme shall comply with the requirements of BS5489, accord with paragraph 7.9 of the approved *Bat Mitigation Strategy (Report No: 5795.003 v2 May 2018)*, and shall be implemented in full prior to the public open space within that phase or sub-phase being available for use.
  - 44) A minimum of 20% of new market properties shall meet Building Regulation Requirement M4(2) for accessible and adaptable dwellings.
  - 45) Before any dwelling is occupied within a particular phase or sub-phase, visibility splays of 2.4m by 25m shall be provided clear of obstruction to visibility above a height of 1m above the carriageway level at all junctions that serve that dwelling within that phase or sub-phase. Once created, these visibility splays shall be maintained clear of any obstruction.
  - 46) Before any dwelling is occupied, all of the areas required for vehicle parking, turning and manoeuvring for that dwelling must be laid out, levelled, and drained in accordance with the approved plans and retained thereafter for the passage and parking of vehicles.
  - 47) The landscaping scheme for the flood relief channel, as shown on drawings refs 5529.01 revision H and 5529.02 revision F shall be implemented in full within the first planting/seeding season following completion of the flood relief channel, and any trees or plants which within a period of 5 years from the completion of the flood relief channel die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
  - 48) No dwellings within a particular phase or sub-phase shall be occupied until landscaping details for that phase or sub-phase have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full in accordance with a timetable to be submitted to and approved in writing by the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development within that phase or sub-phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
  - 49) The glazing and ventilation standards for habitable rooms shall meet the minimum specifications detailed on drawings SK05 and SK06 of the *WYG Noise Assessment Report (A083347 rev 5, dated July 2019)*.
  - 50) No more than 25 residential dwellings within a particular phase or sub-phase shall be occupied until a full travel plan (based on the submitted *Framework Travel Plan, report no: A083347 FTP July 2017*) for that phase or sub-phase has been submitted to and approved in writing by the local planning authority. The provisions of the approved travel plan

shall be implemented and operated in full and in accordance with the timetable contained therein.

**Conditions relating to the outline planning permission only**

- 51) Application for the approval of the details of the appearance, scale, means of access, landscaping and layout (herein called 'the reserved matters') in respect of the older persons housing scheme shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 52) The development shall begin no later than two years from the approval of the final reserved matter and shall be carried out in accordance with the approved details.
- 53) No development shall commence, including any works of demolition, until a construction environmental management plan (CEMP) for that phase or sub-phase has been submitted to and approved in writing by the local planning authority. The CEMP shall include:
  - i) The proposed times construction works shall take place.
  - ii) Details of temporary construction access.
  - iii) Parking arrangements for vehicles of site operatives and visitors.
  - iv) Arrangements for the loading, unloading and storage of plant and materials.
  - v) The location of the site compound.
  - vi) Wheel washing/road sweeping measures.
  - vii) Measures to control the emission of dust and dirt during construction.
  - viii) Measures to control the emission of noise during construction.
  - ix) Details of external lighting to be used during construction.
  - x) The name and contact details of person(s) accountable for air quality and dust issues.
  - xi) A programme for issuing information on construction activities to the occupiers of nearby dwellings.
  - xii) A construction traffic routing plan which shall exclude the use of residential roads to the west of the site.
  - xiii) The times of the movement of heavy goods vehicles to and from the site.
  - xiv) A site waste management plan.
  - xv) Details of any piling and the days and times when piling activity is proposed.
  - xvi) Details of measures to avoid off-site flooding during site remediation and construction.
  - xvii) Details of earthworks and landscaping adjacent to the M58 motorway and the means for protection of the boundary fence to the motorway during the construction period.

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



- 54) No development shall take place until a detailed landscape and ecological management plan, based on the *Land north of Poverty Lane and Land south of School Lane, East Maghull Landscape and Biodiversity Management Plan by The Environment Partnership of July 2017 (ref 6265.04.001 v3)*, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved landscape and ecological management plan.
- 55) Prior to commencement of development, a red squirrel survey shall be undertaken, and the results of the survey submitted to the local planning authority. Should red squirrel be recorded, a mitigation strategy, including a programme for implementation, shall be submitted for the approval in writing by the local planning authority. The mitigation works shall be carried out in accordance with the approved strategy and programme.
- 56) No development (including demolition, ground works and site clearance) shall take place until a method statement to mitigate potential impacts on swallow nesting habitat has been submitted to and approved in writing by the local planning authority. The method statement shall include: measures to avoid harm to swallows, the extent and location of proposed swallow nesting provision, and a programme for implementation of replacement swallow nesting provision. The method statement shall be implemented in accordance with the approved details and programme.
- 57) No development shall take place (other than demolition, site clearance or remediation) until detailed schemes (including ground and finished floor levels above ordnance datum) for the disposal of foul and surface water have been submitted to and approved in writing by the local planning authority.

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

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

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

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

- 58) No dwelling shall be occupied until a validation report demonstrating that the necessary connections for the drainage scheme have been carried out in accordance with the details approved under condition No 57 has been submitted to and approved in writing by the local planning authority.
- 59) No development shall take place within any phase or sub-phase until a written scheme of investigation for archaeological work, including a

- programme for implementation, has been submitted to and approved in writing by the local planning authority. Archaeological investigation shall be carried out in accordance with the approved scheme and programme.
- 60) No development shall take place within any phase or sub-phase until details of a local construction employment scheme have been submitted to and approved in writing by the local planning authority. The scheme shall explain how reasonable endeavours shall be made to use local suppliers, contractors and labour during the construction phase of the development. The development shall be carried out in accordance with the approved scheme.
- 61) Prior to the occupation of any dwellings, infrastructure for electric vehicle charging points shall be installed in accordance with a scheme which has been submitted to and approved in writing by the local planning authority.
- 62) Details of full fibre broadband connections to all proposed dwellings within a particular phase or sub-phase shall be submitted to and approved in writing by the local planning authority. The infrastructure serving a dwelling shall be installed prior to occupation of that dwelling and made available for use immediately on occupation of that dwelling in accordance with the approved details.
- 63) No development shall take place until full details of the existing and proposed ground levels and on adjacent land, by means of spot heights, cross sections, and finished floor levels, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved level details.
- 64) No erection of external lighting shall take place until a detailed design of the lighting unit, supporting structure and the extent of the area to be illuminated, has been submitted to and approved in writing by the local planning authority. The external lighting shall be installed in accordance with the approved details.
- 65) None of the dwellings shall be occupied until a scheme for protecting their occupants from the potential adverse effects of traffic noise has been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the submitted noise assessment (*ref: A083347 rev 5 July 2019*) and include details of noise barriers, building insulation, window glazing and alternative ventilation strategy for the proposed dwellings. Works which form part of the scheme approved by the local planning authority shall be completed for each dwelling prior to occupation of that dwelling.
- 66) Prior to the occupation of 10 dwellings, a full travel plan (based on the submitted *Framework Travel Plan, ref: A083347 FTP July 2017*) shall be submitted to and approved in writing by the local planning authority. The provisions of the travel plan shall then be implemented and operated in full and in accordance with the timetable contained therein.
- 67) No dwelling shall be occupied until cycle parking facilities have been provided in accordance with a scheme which has been submitted to, and approved in writing by, the local planning authority. The cycle parking infrastructure shall be installed in accordance with the approved details prior to occupation and shall be retained thereafter.

END OF CONDITIONS

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

### **Plans**

Drawing No. 2016.006.025 Site Location Plan  
Drawing No. 2016.006.026 Buildings to be Demolished  
Drawing No. 2016.006.027 Indicative Phasing Plan  
Drawing No. A083347-91-18-C001-E Potential Spine Road Alignment between School Lane and Poverty Lane  
Drawing No. A083347-91-18-C007-A Proposed Southern Access Roundabout onto Poverty Lane / Leatherbarrows Lane  
Drawing No. A083347-91-18-C008 Proposed Secondary Access onto Poverty Lane (Priority Junction)  
Drawing No. SK438-BP-01D Boundary Plan  
Drawing No. NSD 9001 Wall Types 1 to 4  
Drawing No. NSD 9102 Fence Types A to D  
Drawing No. NSD 9202 Hooped Top Metal Railings  
Drawing No. PLM.302.01 rev B Boundary Treatment – Phase 1  
Drawing No. PLM.302.02 rev C Boundary Treatment – Phase 3  
Drawing No. ACO.FEN08.01 1.8m High Timber Acoustic Fence  
Drawing No. SDF05 rev A 1800mm High Screen Fence  
Drawing No. SDW08/04 1.8m High Brick Screen Wall Detail (Artstone Piers)  
Drawing No. SDW09 2.1m High Brick Screen Wall Detail (Artstone Piers)  
Drawing No. SDF12 600mm High Timber Knee Rail  
Drawing No. ASHP(14) The Ashop – Floor Plans and Elevations  
Drawing No. BBDGE(14) The Baybridge – Floor Plans and Elevations  
Drawing No. DEE-01 The Dee – Floor Plans  
Drawing No. DEE-6.0-SEMI(A) The Dee – Elevations: 6.0 Brick (Semi) Alt  
Drawing No. DEE-02 The Dee SA - Floor Plans  
Drawing No. DDSA-6.0-SEMI(A) The Dee / Dee SA - Elevations: 6.0 Brick (Semi) Alt  
Drawing No. DUN-B(14) The Dunham – Floor Plans and Elevations  
Drawing No. ELLES(14)-01 The Ellesmere – Floor Plans and Elevations  
Drawing No. ELLE-01 The Ellesmere (Sigma) – Floor Plans  
Drawing No. ELLE-6.0-SEMI(A) The Ellesmere (Sigma) – Elevations: 6.0 - Brick (Semi) Alt  
Drawing No. ESK-01 The Esk – Floor Plans and Elevations  
Drawing No. GRWE-01 The Grantham / Weaver - Ground Floor Plans  
Drawing No. GRWE-02 The Grantham / Weaver – First Floor Plans  
Drawing No. GRWE-6.1-SEMI The Grantham / Weaver – Elevations: 6.1 Brick / Render (Semi)  
Drawing No. IRWL-01 The Irwell – Floor Plans  
Drawing No. IRWL-6.0(SEMI) The Irwell – Elevations: 6.0 Brick (Semi)  
Drawing No. LONG(14) The Longford – Floor Plans and Elevations  
Drawing No. LYMI(14) The Lymington – Floor Plans and Elevations  
Drawing No. NEWASH-01 The New Ashbourne – Floor Plans and Elevations  
Drawing No. NSTAM(14) The New Stamford – Floor Plans and Elevations  
Drawing No. NWALT-01 The New Walton – Floor Plans and Elevations  
Drawing No. OAK-01 The Oakham Floor Plans and Elevations  
Drawing No. STRA-01 The Stratford FCT – Floor Plans and Elevations  
Drawing No. WEAV(UP)-01 The Weaver Underpass – Floor Plans  
Drawing No. WEAV(UP)-6.0-3Blk) The Weaver Underpass – Elevations: 6.0 Brick (3 Block)

Drawing No. WEAV(UP)-6.0-4Blk) The Weaver Underpass – Elevations: 6.0 Brick (4 Block)  
Drawing No. TGDP/PLMM/ALN Alnwick House Type  
Drawing No. TGDP/PLMM/CHE Chedworth House Type  
Drawing No. TGDP/PLMM/CLA+ Clandon Plus House Type  
Drawing No. TGDP/PLMM/CLA CORNER Clayton Corner House Type  
Drawing No. TGDP/PLMM/HAN Hanbury House Type  
Drawing No. TGDP/PLMM/HAT Hatfield House Type  
Drawing No. TGDP/PLMM/KEN Kendal House Type  
Drawing No. TGDP/PLMM/MOS Moseley House Type  
Drawing No. TGDP/PLMM/ROS Roseberry House Type  
Drawing No. TGDP/PLMM/RUF Rufford House Type  
Drawing No. TGDP/PLMM/SOU Souter House Type  
Drawing No. TGDP/PLMM/TIV Tiverton House Type  
Drawing No. TGDP/PLMM/WIN Winster House Type  
Drawing No. LPH.SGD.WD01B Single and Double Garage  
Drawing No. D6265.07.001D Landscape Masterplan  
Drawing No. D6265.07.002B Landscape Masterplan – Whinny Park  
Drawing No. 5529.01H Landscape Structure Plan Phase 1  
Drawing No. 5529.02F Landscape Structure Plan Phase 3  
Drawing No. SK438-MAT rev B Materials Schedule  
Drawing No. PLM-MS-01 rev A Materials Schedule  
Drawing No. SK438-DL-01 rev Q Site Layout  
Drawing No. TGDP/PLMM/PL-P1 rev M Planning Layout Phase 1  
Drawing No. TGDP/PLMM/PL-P3 rev L Planning Layout Phase 3  
Drawing No. SK438-CSP-01 rev L Composite Site Plan  
Drawing No. SK029 rev P2 Flood Relief Channel General Arrangements Plan (Site A only)

## **Documents**

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

## **APPEARANCES**

### FOR THE APPELLANTS:

Ms T Osmund-Smith of Counsel	Instructed by Mr Garratt
Dr N R Bunn BSc(Hons) PhD	Director, WYG Environment Planning Transport Ltd
MSc MCIHT CMILT	
Mr C M Garratt BSc(Hons) MA	Director, White Peak Planning Ltd
MSc MRTPI PIEMA	
Mr M J Travis BSc(Hons) MSc	Director, Enzygo Ltd
C.WEM M.CIWEM CSci C.Env	
Dr M Walker BSc(Hons) MSc	Principal Ecologist, The Environment Partnership
PhD MCIEEM	

### FOR THE LOCAL PLANNING AUTHORITY:

Mr A Gill of Counsel	Instructed by Mr N Kennard, Senior Lawyer, Sefton Council
Dr S Birch	Transport Planning & Highway Development Manager, Sefton Council
Ms D Humphreys	Senior Planner Development Management, Sefton Council
Mr S Faulkner	Team Leader Development Management, Sefton Council
Mr I Loughlin	Planning Officer, Sefton Council
Mr S Dimba	Drainage Engineer, Sefton Council
Ms S Leadsom	Principal Ecologist, Merseyside Environmental Advisory Service

### FOR MAGHULL TOWN COUNCIL:

M P Dixon of Counsel	Instructed by Mr Landor
Mr E Landor MRTPI	Landor Planning Consultants

### INTERESTED PERSONS:

Mr W Esterson MP	Member of Parliament for Sefton Central
Councillor C Carlsen	Member of Maghull TC
Councillor P McKinley BA(Hons)	Member of Sefton Council for Sudell Ward, Leader of Maghull TC
CertEd MCIDip	
Councillor Y Sayers	Member of Sefton Council for Sudell Ward, Member of Maghull TC
Dr P Alston	Local resident

## **CORE DOCUMENTS - STATEMENTS**

- 13.1 The Appellants' statement of case.
- 13.2 The LPA's statement of case.
- 13.3 Maghull TC's statement of case.
- 13.4 Dr Bunn's statement on behalf of the Appellants.
- 13.5 Mr Garratt's statement on behalf of the Appellants.
- 13.6 Mr Travis's statement on behalf of the Appellants.
- 13.7 Dr Walker's statement on behalf of the Appellants.

- 13.8 The LPA's statement.
- 13.9 Mr Landor's statement on behalf of Maghull TC.
- 13.10 Mr Landor's rebuttal statement on behalf of Maghull TC.
- 13.11 Community Infrastructure Levy Regulations Statement.  
Submitted by the LPA.

### **HEARING DOCUMENTS**

- H1 Ms Osmund-Smith's opening statement on behalf of the Appellants.
- H2 Mr Dixon's opening statement on behalf of Maghull TC.
- H3 Mr Gill's opening statement on behalf of the LPA.
- H4 Councillor McKinley's statement.
- H5 Briefing Note – November 2020 – Ward Councillors, A59 Northway/ Damfield Lane Junction improvement. Submitted by Dr Birch.
- H6 Councillor Sayers' statement.
- H7 Extract from the Community Infrastructure Levy Regulations 2010.
- H8 Sefton Local Plan Policies Map – Sefton East Parishes.
- H9 Planning permission ref DC/2018/01458 for a petrol station, drive through café and restaurants, on land off Maghull Lane, Melling.
- H10 Location plan relating to Document H9.
- H11 Emails from the LPA, the Appellants' agent and United Utilities concerning possible drainage conditions.
- H12 Comments on possible conditions from United Utilities. Submitted by the LPA.
- H13 Email dated 16 December 2020 from Mr Garratt concerning possible conditions in respect of local shopping provision and pink-footed geese mitigation.
- H15 Possible conditions concerning local shopping provision and business park landscaping. Submitted by Mr Dixon.
- H16 Ms Osmund-Smith's closing submissions on behalf of the Appellants.
- H17 Possible conditions concerning local shopping provision and business park landscaping. Submitted by the LPA.
- H18 Mr Gill's closing submissions on behalf of the LPA.
- H19 Mr Dixon's closing submissions on behalf of Maghull TC.
- H20 Planning agreement relating to the appeal proposal.
- H21 Regulation 2(4) notice from The Planning Inspectorate concerning possible pre-commencement conditions.
- H22 Email exchange between The Planning Inspectorate, the Appellants' agent and the LPA concerning highway works and a possible condition in respect of pink-footed geese mitigation.
- H23 Bundle of emails from The Planning Inspectorate, the Appellants' agent and the LPA concerning Document H21.
- H24 Email exchange between The Planning Inspectorate, the Appellants' agent and the LPA concerning the composite site plan.





## Appeal Decision

Site Visit made on 23 November 2020 by Hilary Senior BA (Hons) MCD MRTPI

**Decision by Zoe Raygen Dip URP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 20 January 2021**

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### **Appeal Ref: APP/M4320/W/20/3258298 235 Worcester Road, Liverpool L20 9AE**

- 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 Star Property & Lettings Ltd against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2020/00083, dated 16 January 2020, was refused by notice dated 13 August 2020.
  - The development proposed is change of use from a residential dwelling to 8 unit HMO.
- 

### **Decision**

1. The appeal is allowed and planning permission granted for the change of use from a garage/dwelling to a house in multiple occupation (7 units) at 235 Worcester Road, Liverpool L20 9AE in accordance with the terms of the application, DC/2020/00083, dated 16 January 2020, subject to the conditions in the attached schedule.

### **Appeal Procedure**

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### **Preliminary Matters**

3. I have before me, from the appellant, two versions of drawing number 003. For the avoidance of doubt the Council has confirmed that amended Drwg No 003 Rev D was submitted during the course of the application, to reduce the number of units from 8 to 7, to include en-suite bathrooms in several of the rooms and to amend the landscaping scheme and the application the subject of this appeal was determined on that basis. I have therefore had regard to the revised plan in considering this appeal.
4. The description of development in the banner heading is taken from the application form. However, in the formal decision I have used the description from the Decision Notice, which reflects the amendments discussed in the preceding paragraph.

### **Background and Main Issue**

5. The planning application the subject of this appeal was refused for three reasons relating to overconcentration of HMOs and the quality of internal and external space for future residents. I note from the Council's statement of case that a



subsequent application for the same site has been received and determined, with a single reason for refusal relating to the quality of internal space<sup>1</sup>. As the Council now considers that there would not be an overconcentration of HMOs in the area and the quality of the external space would be appropriate it is not defending reasons for refusal 1 and 3 in these respects. Having viewed the evidence before me, and from my observations on site, I see no reason to disagree with this approach.

6. In that context, the main issue is whether the proposal would provide satisfactory living conditions for all future occupiers of 235 Worcester Road with particular regard to internal space.

### **Reasons**

7. The host property is a disused detached building located at the junction of Worcester Road and Aintree Road. It was previously in mixed use as a garage and residential. The proposal is to change the use of the building to a seven unit HMO.
8. The character of the area is one of mixed use, including residential, commercial and retail uses.
9. My attention has been drawn to the Flats and Houses in Multiple Occupation Supplementary Planning Guidance (2018) (SPD) which includes, amongst other things, guidance on room sizes, outlook and prospect and access to indoor and outdoor communal areas.
10. From the plans before me, the proposed room sizes and facilities, including shared spaces, appear to be in line with the SPD and would therefore provide a satisfactory standard of accommodation. It is not unusual for ground floor rooms to be used as bedrooms in HMO's but with the provision of a shared kitchen and lounge area of a suitable size, excessive disruption and noise in the hall areas would be unusual, particularly given that most rooms would have en-suite facilities.
11. There is a garage adjacent to the site on Worcester Road. Whilst there is a boundary wall joining the properties, the garage itself is not attached to the appeal property and is separated from it by an open area intended for bin and cycle storage. I do not consider that the garage would cause disruption and noise for the ground floor rooms, particularly as they would be separated from the garage by the communal areas.
12. For the reasons above I conclude that the proposal would provide satisfactory living conditions for all future occupiers of 235 Worcester Road with particular regard to internal space. It would not therefore be contrary to policy HD4 of A Local Plan for Sefton (2017), the guidance in the SPD or the National Planning Policy Framework (the Framework) which together, amongst other things, seek to ensure that developments do not cause significant harm to living conditions of occupiers or neighbours.

### **Other Matters**

13. I acknowledge the neighbours' concerns regarding parking and traffic generation. Whilst there are parking restrictions outside the property on both Aintree Road and Worcester Road there is on street parking available elsewhere on Worcester

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<sup>1</sup> DC/2020/01613

Road and surrounding streets. The evidence in the traffic survey, submitted as an appeal document, indicates that there are no specific parking problems in the area. This was my experience at the time of my site visit, which was late morning, when there was no evidence of a lack of parking spaces. Furthermore, the area is well served by public transport and the application indicates that cycle stands would be provided which would reduce the need for a private car. Therefore, there is no substantive evidence before me that the modest increase in car parking demand arising from the development could not be adequately accommodated on-street.

14. I note the appellant's concerns regarding the Council's handling of the case. However, this is a matter that would need to be taken up with the Council in the first instance. In determining this appeal, I am only able to have regard to the planning merits of the case.

### **Conditions**

15. I have had regard to the planning conditions suggested by the Council. I have imposed conditions relating to the plans, landscaping and number of occupiers in the interests of certainty and to protect the living conditions of local residents. I note that the Council has suggested the extension of the standard time for the commencement of the development to five years in response to the current pandemic. However, there is no substantive evidence that three years is not long enough for the change of use to be implemented even under current restricted conditions. To promote the use of cycling a condition to ensure that cycle stands are provided for occupants to use is reasonable and necessary.
16. A condition requiring the removal of the existing roller shutters is necessary to safeguard the character and appearance of the area and the living conditions of the occupiers.
17. Environmental Health require that acoustic ventilators are installed to the Windows facing Worcester Road and Aintree Road to reduce noise within the HMO. This is necessary to protect the living conditions of future occupiers.
18. As there would be no off road parking, the existing vehicular access to the property from Aintree Road would no longer be required and the condition to close this is necessary for highway safety.

### **Conclusion and Recommendation**

19. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is allowed.

*Hilary Senior*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

*Zoe Raygen*

INSPECTOR

## **Schedule**

### **Conditions**

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Site Outlined in red as shown on the amended location plan received by the Local Planning Authority on 3rd February 2020 and Drwg No`s 003 Rev D and 004 Rev A.
- 3) Prior to the first occupation of the building acoustic ventilators (typically in - frame) shall be installed to all windows facing Worcester and Aintree Road and retained thereafter.
- 4) Prior to the first occupation of the building, a scheme of works for the closure and reinstatement of the existing vehicular and/or pedestrian access on to Aintree Road shall be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the existing vehicular and/or pedestrian access on to Aintree Road has been permanently closed off and the footway reinstated. These works shall be in accordance with the approved scheme.
- 5) Prior to the first occupation of the building, the space and facilities for cycle parking must be provided in accordance with the approved plan 003 Rev D and these facilities shall be retained thereafter for that specific use.
- 6) No part of the development shall be occupied until the approved landscaping scheme shown on plan ref 003 Rev D has been implemented. The approved scheme shall be maintained as such thereafter.
- 7) Prior to first occupation of the building, the roller shutters on all the doors and windows and any signage on the building shall be removed permanently.
- 8) The maximum number of residents occupying the premises shall not exceed 10 (ten) persons.



## Appeal Decision

Site Visit made on 5 January 2021

**by Mr Andrew McGlone BSc(Hons), MCD, MRTPI**

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

**Decision date: 8 January 2021**

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### **Appeal Ref: APP/M4320/Z/20/3261132**

#### **157 College Road, Crosby L23 3AS**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Paul Hardy of the BIG EVENT GROUP against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2020/01362, dated 21 July 2020, was refused by notice dated 7 October 2020.
  - The advertisement proposed is the replacement of existing gable mounted 1 x 16 sheet billboard (measuring 3m high x 2m wide) with 1 x 16 sheet digital advertising display unit.
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### **Decision**

1. The appeal is allowed and express consent is granted for the replacement of existing gable mounted 1 x 16 sheet billboard (measuring 3m high x 2m wide) with 1 x 16 sheet digital advertising display unit as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the conditions in the schedule.

### **Main Issue**

2. The Council do not raise issue with the proposal in respect of public safety. I agree based on the evidence before me. As such, the main issue is the effect of the proposed advertisement on the visual amenity of the surrounding area.

### **Reasons**

3. The appeal site lies on the north-west gable elevation of an end terraced property situated at the junction of College Road and Rossett Road. The proposal would be roughly in the same position and of the same size as the existing 16-sheet hoarding that is positioned on this elevation. While the existing advert may not have been granted express consent, the consensus is that it has been in situ for over 10 years. Thus, it would have deemed consent.
4. The Council say that the existing advert creates a harmful visual impact, but their assessment does not suggest that the hurdle to be overcome for a discontinuance notice to be served would be. This leads me to consider that the existing advert could remain in situ. Even so, the proposal would replace it.
5. Although the site lies within a Primary Residential Area, commercial premises line both sides of College Road between the roundabout to the north-west and just beyond Rossett Park to the south-east of the site. The appeal property itself is used as a café on the ground and first floor and as an office on the second floor. A range of illuminated and non-illuminated adverts populate the

- commercial premises, though these are typically at street level. Residential properties mainly line the roads leading off this stretch of College Road.
6. The proposed advert would draw greater attention to the property's gable elevation especially during the hours of darkness or in periods of lower daylight, thereby detracting from the visual amenity of the area. That said, it would be viewed in the context of other adverts near to and further away from the site as well as an active moving street scene. While the proposal would not unduly affect the architectural features of the building, the illuminated display would routinely change compared to the existing singular static image. However, a series of planning conditions to control luminance levels, the hours of operation, the minimum length and type of each display and the interval between successive displays could address these matters so that the proposal would not appear as an alien, incongruous and visually intrusive feature.
  7. I note the other examples referred to by each party, but I have considered the proposal on its own merits having regard to the site-specific circumstances.
  8. The Council have cited Policy EQ11 of A Local Plan for Sefton which seeks proposals for advertisements to not have an unacceptable impact upon amenity having regard to several factors. Thus, the policy is material in this case. I have also had regard to paragraph 132 of the National Planning Policy Framework which seeks to prevent the negative impact of poorly sited and designed advertisements.
  9. The proposal would not be detrimental to the visual amenity of the surrounding area. I therefore conclude that the advert would be acceptable in this regard and that no conflict would be caused with the policies set out above.

### **Other Matters**

10. I note a resident confirmed to the Council their wish to withdraw their objection to the scheme. Even so, in respect of the other matters raised, the courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property could not be a relevant consideration. Points made by the appellant such as the proposal's contribution to the local economy, ease of maintenance, and more flexible advertising are all noted, but have not been decisive in the outcome of the appeal.

### **Conclusion and Conditions**

11. For the reasons given above I conclude that the display of the advertisement would not be detrimental to the interests of amenity and public safety subject to conditions to: control the intensity of illumination; hours in which it is illuminated; the minimum display time and interval between each display; the content; and in the event of a malfunction. These conditions are all necessary in the interest of amenity or public safety.

*Mr Andrew McGlone*

INSPECTOR

## SCHEDULE OF CONDITIONS

- 1) The luminance level of the display shall be controlled by ambient environmental control, which must automatically adjust the brightness level of the screen to track the light level changes in the environment throughout the day to ensure that the perceived brightness of the display is maintained at a set level. The intensity of the illumination of the sign permitted by this consent shall be no greater than 600 candela; and shall not exceed 300 candela during the period between sunset and 2200 hours.
- 2) The advert shall only be illuminated between the hours of 07:00 and 22:00.
- 3) The minimum display time for each advertisement shall be 10 seconds and the interval between successive displays shall be 0.1 seconds or less and the transition between displays shall be smooth and uninterrupted.
- 4) The advertisement shall not contain any animation, special effects, flashing, scrolling, three-dimensional images, intermittent or video elements. It shall also not display or contain any features or equipment which would permit interactive messages/advertisements to be displayed or images that resemble official road traffic signs, traffic lights or traffic matrix signs.
- 5) If the display breaks down or is not in use, the panel shall default to a black screen.

END OF SCHEDULE





## Appeal Decision

Site Visit made on 8 December 2020

**by R Morgan BSc (Hons) MCD MRTPI**

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

**Decision date: 21 December 2020**

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**Appeal Ref: APP/M4320/W/20/3258714**  
**Flat 1-6, 45 Stanley Road, BOOTLE, L20 7AW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr S Gerber against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2019/02007, dated 23 October 2019, was refused by notice dated 6 March 2020.
  - The application sought planning permission for the change of use of ground floor from retail (A1) and the first and second floors to 6 one bed apartments (C3) including alterations to the front and side elevations, without complying with a condition attached to planning permission Ref DC/2019/00163, dated 27 March 2019.
  - The condition in dispute is No 2 which states that:  
*The development hereby granted shall be carried out strictly in accordance with the following details and plans:*  
*Drawing No. A/605/LP Location and Block Plans*  
*Drawing No. A/605/02E Proposed Floor Plans*  
*Drawing No. A/605/04D Proposed Elevations*
  - The reason given for the condition is:  
*To ensure a satisfactory development.*
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use of ground floor from retail (A1) and the first and second floors to 6 one-bed apartments (C3) including alterations to the front and side elevations at Flat 1-6, 45 Stanley Road, BOOTLE, L20 7AW in accordance with the terms of the application, Ref DC/2019/02007, dated 23 October 2019, subject to the following conditions:
  1. The development hereby granted shall be carried out strictly in accordance with the following details and plans:  
  
A/605/LP – Location and block plan  
A/605/02F – Proposed floor plans  
A/605/04D – Proposed elevations
  2. No part of the development shall be brought into use until space and facilities for cycle parking have been provided in accordance with the approved plan and these facilities shall be retained thereafter for that specific use.

## **Background and Main Issue**

3. Planning permission was granted in March 2019 for the change of use of 45 Stanley Road Bootle to form 6 one-bed apartments, subject to five conditions. The development has now been carried out, but the alteration of the ground floor corner elevations has not been constructed in accordance with the details shown on approved drawing ref A/605/04D. The appeal proposal seeks to vary condition 2, to enable the new corner elevation to be retained as built. However, the Council consider that this deviation from the approved scheme causes harm to the character and appearance of the area, and refused the application on that basis.
4. A further change to condition 2 is also sought, to enable the retention of the cycle storage area in the external yard, rather than inside the building, as shown on approved drawing no. A/605/02E. Whilst noting that this change does result in a loss of private amenity space for the residents, the Council has not raised an objection to this element of the proposal.
5. The main issue is therefore the effect of varying condition 2 on the character and appearance of the area.

## **Reasons**

6. The appeal site is a corner property in a large three-storey terrace fronting onto Stanley Road, which is a main route between Bootle and central Liverpool. This terrace, like similar blocks along the street, has an air of decline, but remains grand and imposing in appearance, and makes a significant contribution to the character of the area.
7. At ground floor level the terrace is occupied by shop units, some of which are vacant. Above the shop fronts, at first and second floor level, the original pattern of fenestration along the terrace is largely intact. The distinctive brickwork, with banding and decorative details around the windows, strongly define the character of the building, despite the variation in the shop fronts at street level.
8. The approved scheme involves the replacement of the corner shop front with a brick wall incorporating three windows. The approved drawing indicates materials to match the existing building, and banding and detailing around the windows. I appreciate that the original brick colour is now indistinct, but the light coloured facing bricks which have been used in the built scheme do not reflect the darker colour of the rest of the building and adjacent shop fronts. As a result, the replacement brickwork fails to respect the appearance and character of the existing building. The pale colour draws attention to the new corner elevation, which appears highly prominent along this major thoroughfare.
9. The decorative brick and stonework details on the first and second floors of the terrace draw attention to the windows, and increase their visual prominence on the main elevations of the building. The approved scheme involved a much simpler elevation than that of the floors above, but the incorporation of brick banding and the use of smooth red brick around the windows would have helped the development to harmonise with the existing building.

10. However, in the scheme as built, these features have been omitted, and the former shop front has been replaced with a largely featureless wall, which fails to reflect these important elements of the building. As a result, the windows on the new front and side elevations appear overly small within the otherwise blank frontages. Due to the colour of the brickwork and the lack of detailing, the development fails to respect the character and appearance of the existing terrace, and appears obtrusive within the wider streetscene.
11. I acknowledge that, by bringing the building back into use, the development has resulted in improvements to the appearance of the upper elevations, and has removed a vacant shop front which may have been unattractive. However, this does not justify the poor appearance of the new corner elevation. The new frontage is an important element of the scheme, which if retained as built, will cause lasting harm to the character of this prominent building.
12. I conclude that, in respect of the front and side elevations, the proposed variation of condition 2 causes harm to the character and appearance of the area. It conflicts with Policy EG2 of the Sefton Local Plan 2017, which requires that proposals make a positive contribution to their surroundings through the quality of their design, in terms of detailing and use of materials. There is further conflict with paragraph 127c) of the National Planning Policy Framework, which requires that developments are sympathetic to local character and history.

### **Other Matters and Conditions**

13. The proposed change to condition 2 regarding the elevation drawings is not acceptable for the reasons described. However, the proposal also seeks to vary condition 2 to allow the retention of the cycle store outside of the building. This change to the approved floor plans, which was needed to enable electric meters to be installed, is acceptable, and I have varied condition 2 accordingly.
14. The original planning permission has already been implemented so I have omitted condition 1, which is no longer necessary, and renumbered the subsequent conditions. The Council has confirmed that conditions 4 and 5 have previously been approved, and therefore do not need to be repeated. Condition 3, which requires that space for cycle parking is provided and retained thereafter, is still necessary in the interests of sustainable transport, and I have re-imposed it.

### **Conclusion**

15. For the reasons given, I have allowed the appeal insofar as it relates to the repositioned cycle storage area, and have varied condition 2 accordingly. However, in relation to the elevation drawings, the proposed variation of condition 2 conflicts with the development plan, and I have identified no other considerations which outweigh this finding. I have therefore dismissed this element of the appeal proposal.

*R Morgan* INSPECTOR