

## Appeals Received and Decisions Made

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

Contact Officer: Mr Steve Matthews 0345 140 0845

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

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

Appeals received and decisions made between 10 July 2021 and 08 August 2021

## Appeal Decisions

### Land To The Rear Of 61 Gardner Road Formby Liverpool L37 8DE

**Reference:** DC/2020/02046 (APP/M4320/W/21/3272332)

Change of use of the land from amenity space to a private garden.

**Procedure:** Written Representations

**Start Date:** 07/05/2021

**Decision:** Dismissed

**Decision Date:** 28/07/2021

---

### 34 Summerhill Drive, Maghull L31 3DW

**Reference:** DC/2020/02076 (APP/M4320/D/21/3268979)

Erection of a single storey garage extension to the front of the dwellinghouse.

**Procedure:** Householder Appeal

**Start Date:** 12/07/2021

**Decision:** Dismissed

**Decision Date:** 28/07/2021

---

### The land at 2 Barkeley Drive, Seaforth, Liverpool L21 4LX

**Reference:** EN/2020/00311 (APP/M4320/C/20/3258710)

Appeal against without planning permission and within the last 10 years the change of use and conversion of the dwelling house to a 5 studio house in multiple occupation (HMO)

**Procedure:** Written Representations

**Start Date:** 10/11/2020

**Decision:** Allowed

**Decision Date:** 01/06/2021

---

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

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

Erection of a two storey extension to the rear of property

**Procedure:** Written Representations

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

**Decision:** Allowed

**Decision Date:** 28/05/2021

---

### 2A Marldon Avenue, Crosby L23 0SL

**Reference:** EN/2020/00094 (APP/M4320/C/20/3264144)

Without planning permission and within the last four years, the erection of a boundary fence and posts to the side of the dwelling house (as shown cross-hatched on the attached plan Ref A) in excess of 1 metre in height adjacent to a highway, Liverpool Road, Crosby.

**Procedure:** Written Representations

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

**Decision:** Quashed

**Decision Date:** 28/05/2021

---

### 2A Marldon Avenue, Crosby L23 0SL

**Reference:** EN/2020/00094 (APP/M4320/C/20/3264143)

Without planning permission and within the last four years, the erection of a boundary fence and posts to the side of the dwelling house (as shown cross-hatched on the attached plan Ref A) in excess of 1 metre in height adjacent to a highway, Liverpool Road, Crosby.

**Procedure:** Written Representations

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

**Decision:** Quashed

**Decision Date:** 28/05/2021

---

## Land West of Damfield Lane, Maghull, Merseyside L31 3EL

**Reference:** DC/2020/02059 (APP/M4320/W/21/3268667)

Variation of conditions 1, 14 and 16 pursuant to planning permission DC/2019/02432 approved 03/08/2020 to introduce gated access to the development

**Procedure:** Written Representations

**Start Date:** 26/03/2021

**Decision:** Allowed

**Decision Date:** 27/05/2021

---

## 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:** Allowed

**Decision Date:** 30/04/2021

---

## 16 Waterway Avenue, Netherton L30 8RQ

**Reference:** DC/2020/01085 (APP/M4320/W/20/3262749)

Erection of a single storey extension to the rear of the dwelling house and a detached garage (alternative to DC/2020/00194)

**Procedure:** Written Representations

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

**Decision:** Allowed

**Decision Date:** 05/03/2021

---

## Bootle Cricket Ground, Wadham Road, Bootle, L20 2DD

**Reference:** DC/2020/00636 (APP/M4320/W/20/3262057)

Erection of safety netting/fencing on Wadham Road boundary of cricket ground

**Procedure:** Written Representations

**Start Date:** 25/11/2020

**Decision:** Allowed

**Decision Date:** 10/02/2021

## New Appeals

### 34 Summerhill Drive Maghull Liverpool L31 3DW

**Reference:** DC/2020/02076 (APP/M4320/D/21/3268979)

Erection of a single storey garage extension to the front of the dwellinghouse.

**Procedure:** Householder Appeal

**Start Date:** 12/07/2021

**Decision:** Dismissed

**Decision Date:** 28/07/2021

---

### Greenloons Farm Kirklake Road Formby Liverpool L37 2DD

**Reference:** DC/2019/01421 (APP/M4320/W/21/3271324)

Erection of dwellinghouse following demolition of existing dwelling

**Procedure:** Written Representations

**Start Date:** 20/07/2021

**Decision:**

**Decision Date:**

---

### 100 Cambridge Road Crosby Liverpool L23 7UA

**Reference:** EN/2021/00198 (APP/M4320/C/21/3276885)

Appeal against the creation of a balcony / terrace on top of the existing garage roof and erection of a rail to the perimeter of the balcony / terrace

**Procedure:** Written Representations

**Start Date:** 16/07/2021

**Decision:**

**Decision Date:**

---

### 51 Sandhurst Drive Aintree Liverpool L10 6LU

**Reference:** DC/2021/00943 (APP/M4320/X/21/3277991)

Certificate of Lawfulness for the proposed detached outbuilding in the rear garden.

**Procedure:** Written Representations

**Start Date:** 02/08/2021

**Decision:**

**Decision Date:**

## 9 Hawthorne Road Bootle L20 2DG

Appeals received and decisions made between 10 July 2021 and 08 August 2021

**Reference:** DC/2020/01792 (APP/M4320/W/21/3277692)

Change of use of the first and second floors from gymnasium (Use class E) to dwelling (Use class C3) with alterations to the shop front to provide a separate access

**Procedure:** Written Representations

**Start Date:** 20/07/2021

**Decision:**

**Decision Date:**

---

## 77 Scarisbrick New Road Southport PR8 6LJ

**Reference:** DC/2020/02568 (APP/M4320/D/21/3276976)

Erection of a retractable enclosure for outdoor swimming pool (retrospective) and erection of fence to boundary wall

**Procedure:** Householder Appeal

**Start Date:** 12/07/2021

**Decision:**

**Decision Date:**

---

## Park House Guest House Haigh Road Waterloo Liverpool L22 3XS

**Reference:** DC/2019/01043 (APP/M4320/W/21/3270408)

Outline planning application with all matters reserved except for access for extra care residential apartment building and independent living residential apartment building (C3) (up to 142 units), for occupants aged over 55 years and 100% affordable, including demolition of existing building.

**Procedure:** Written Representations

**Start Date:** 16/07/2021

**Decision:**

**Decision Date:**



## Appeal Decision

Site Visit made on 6 July 2021

**by Mark Caine BSc (Hons) MTPL MRTPI LSRA**

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

**Decision date: 28 July 2021**

---

**Appeal Ref: APP/M4320/W/21/3272332**

**Land to the rear of 61 Gardner Road, Formby, Merseyside L37 8DE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Matthew Edwardson against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2020/02046, dated 5 October 2020, was refused by notice dated 5 February 2021.
  - The development proposed is described as 'We need a change of use for the land to the rear of 61 Gardner Road from local amenity to garden use. We are purchasing the land from the Souini Group and need change of use to complete the sale. We will erect a 6ft wooden fence to complete the boundary.'
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Notwithstanding the description of the proposed development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development proposed is the change of use of land from amenity space to a private garden, and the erection of an approximately 1.8 metre high concrete post and timber panel fence. I have dealt with the appeal on this basis as it more accurately describes the proposal.
3. The application form also states that the site address is 61 Gardner Road, however the Council's decision notice refers to the location of development as 'land to the rear of 61 Gardner Road'. I have used the Council's site address in the banner heading above as it is also more accurate.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.

### Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

### Reasons

6. The appeal relates to a roughly rectangular shaped piece of open green land directly to the rear of 61 Gardner Road's back garden. It is part of an area of open space comprising amenity grassland and trees to the side of a pedestrian footpath named Mittens Lane. This footpath connects Gardner Road with other residential streets including Smithy Green and Watchyard Lane.

7. Long stretches of Mittens Lane have relatively narrow grass verges to either side of it, however these open up to form a larger area of grassland around and within a looped section of this footpath, to the rear of No 61. Although the appellant has informed me that this arrangement was a result of the presence of oil tanks rather than any planned provision, I consider this area of open space to provide an important green corridor and soft visual break in the built-up development. I note that, on a plain reading, Local Plan policy NH5 relates to all forms of open space, rather than that which is formally designated or identified as such.
8. I acknowledge that the proposed concrete post and timber fence would be similar in height and design to boundary treatments elsewhere in the area and that it would align with existing fence lines to the rear of the neighbouring properties at 63-71 Gardner Road. I am also aware that the appeal site only forms a relatively modest portion of this larger area of open space and that a mature sycamore tree is proposed to be retained.
9. Nonetheless, the proposal would result in an increased sense of enclosure beyond the rear of the property. The likely introduction of domestic paraphernalia associated with the change of use to garden land, would inevitably alter its character and significantly reduce the openness of this area of amenity grassland. Consequently, the large extent of fencing, likely associated domestic paraphernalia and the encroachment into the open space would be visually obtrusive when viewed from Mittens Lane and from the rear windows of neighbouring properties on Gardner Road, Smithy Green and Watchyard Lane.
10. I note the appellant's willingness to accept planning conditions for the protection of the tree roots during the works to erect the proposed fencing and for further details of the design and appearance of the proposed fence to be submitted to the Council for its approval. However, these would not provide sufficient mitigation measures to overcome the harm that I have identified above.
11. I therefore find that the proposed change of use and subsequent loss of an area of open space would significantly harm the character and appearance of the area. As such it conflicts with Policies EQ1, EQ2 and NH5 of A Local Plan for Sefton (2017) and Policy ESD2 of the Formby & Little Altcar Neighbourhood Development Plan 2012 to 2030. These collectively seek, amongst other matters, for development to positively contribute to local character, protect open space and retain and enhance important landscaped features.

### **Other Matters**

12. The Council has provided little conclusive evidence to substantiate how the proposed development would lead to a less safe environment. Conversely, I am mindful that the proposed fencing would remove the relatively deep and secluded 'blind corner' to the western side of the fence line of No 63 and would prevent access to the rear garden area of No 61. Whilst the proposal would also create a blind spot to the side of its western fence line, this would be sited further away from the footpath, which curves away at this point, than the existing blind spot and would thereby provide greater separation between it and the users of Mittens Lane.

13. Nonetheless, whilst I note the appellant's household's experience in respect of an intruder, it has not been substantiated that the proposal is the only practical means of ensuring the immediate security of the area or safety of the users of the footpath. These factors therefore limit the weight that I can attribute to this matter in favour of the proposed scheme.
14. I also note the appellant's dissatisfaction in respect of the delegated planning officer report's coverage of local resident's representations. Nevertheless, this matter has not had any bearing on my decision as I have only had regard to the planning merits of the proposal that is before me.

**Conclusion**

15. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should therefore be dismissed.

*Mark Caine*

INSPECTOR



---

# Appeal Decision

Site Visit made on 22 July 2021

**by Andrew McGlone BSc MCD MRTPI**

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

**Decision date: 28 July 2021**

---

**Appeal Ref: APP/M4320/D/21/3268979**

**34 Summerhill Drive, Maghull L31 3DW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr David Williams against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2020/02076, dated 14 October 2020, was refused by notice dated 4 December 2020.
  - The development proposed is a garage extension to the front elevation.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. On 20 July 2021 a revised National Planning Policy Framework ('the Framework') was issued replacing the version of the Framework published in 2019. However, it does not change design policy in relation to the proposal.

## Main Issue

3. The main issue is the effect of the proposed extension on the character and appearance of the host dwelling and the surrounding area.

## Reasons

4. The appeal property is a two-storey semi-detached dwelling in an area characterised by a range of dwelling types and styles. A number have modest extensions to the front. Summerhill Road is relatively straight, but it rises and curves gradually near to No 34. Although not universal, properties in the road do have open plan frontages and are set back from the road. Properties also have off-street parking and/or front gardens. Several trees populate the front garden of 36 Summerhill Drive.
5. The adjacent dwelling at 32 Summerhill Drive has a single-storey front extension that abuts and extends forward of the appeal property's existing garage. This relationship reflects the slight variation between the front building lines of the semi-detached pairings at 30 and 32 and 34 and 36 Summerhill Drive and other properties on the south-eastern side of the road. This is in response to the curvature of the road.
6. Despite this variation, the proposed garage would project a considerable distance beyond the appeal property's front elevation and the extension at No 32. Given the depth of the proposed extension, the Council's House Extensions Supplementary Planning Document (SPD) explains that this type of development will only be permitted provided that it does not cause harm to,

among other things, the existing building and the character of the area. Extensions should also reflect the consistent line of buildings and the character of other properties in the area, including the design and depth of any front extensions on neighbouring properties. They should also be of a size compatible with the existing building.

7. The height, massing and appearance of the proposed garage would harmonise with the host property and the surrounding area. The proposal would also retain adequate parking and garden provision to the front. However, the size of the proposed extension's forward projection would not be in keeping with the host dwelling and it would not respond to the slight variation in the line of buildings that characterises the street. The effect from the south west would not be particularly harmful owing to the extension at No 32 but when the site is viewed from the north and from the area close to the junction of Summerhill Drive and Ashleigh Road the proposal would be especially noticeable and cause a detrimental effect on the character and appearance of the street scene even with the screening afforded by several trees.
8. It is commonplace for residents on the road to have a view of neighbouring properties. I also note the intention to render the flank wall of the extension to No 32. Even so, house extensions do need to be of a size and scale that is in keeping with the original dwelling. The proposal would not achieve this.
9. The submitted plan shows that the extension would be used as a garage, and it may allow larger vehicles to be parked inside thereby affording protection against prospective crime. I am mindful of the appellant's potential longer-term plan to adapt his home to form a downstairs bedroom which could allow a long-standing resident, to remain in his home whilst making efficient use of the house. Both matters weigh in favour of the appeal scheme, but they do not outweigh the significant harm that the proposal would cause especially as there is no substantive evidence to indicate whether the home could still be adapted by using either the current footprint or a smaller extension.
10. I conclude that the proposed extension would cause a significant harm to the character and appearance of the host dwelling and the surrounding area. Accordingly, it would not accord with Policy HC4 of A Local Plan for Sefton, Policy MAG 4 of the Maghull Neighbourhood Plan 2017 – 2037 and the SPD. Jointly, these seek, house extensions to be of high-quality design which is of a size and scale that is in keeping with the original dwelling and respects the general layout of the area.

### **Conclusion**

11. The proposal would not harm the living conditions of neighbouring occupiers in terms of the loss of light or outlook. However, the proposed development would not accord with the Development Plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.
12. For the reasons given above I conclude that the appeal should be dismissed.

*Andrew McGlone*

INSPECTOR





---

## Appeal Decision

Site visit made on 28 April 2021

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

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

**Decision date: 01 June 2021**

---

**Appeal Ref: APP/M4320/C/20/3258710**

**The land at 2 Barkeley Drive, Seaforth, Liverpool L21 4LX**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mrs M Price against an enforcement notice issued by Sefton Metropolitan Borough Council.
  - The enforcement notice was issued on 6 August 2020.
  - The breach of planning control as alleged in the notice is without planning permission and within the last 10 years the change of use and conversion of the dwelling house to a 5 - studio house in multiple occupation (HMO).
  - The requirements of the notice are to cease using the premises as a House in Multiple Occupation (HMO).
  - The period for compliance with the requirements is two months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a) (f) and (g) of the Town and Country Planning Act 1990 as amended.
- 

### Decision

1. The appeal is allowed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the material change of use to a four bedroom house in multiple occupation (HMO), in accordance with the following plans: 0806.P.0104 and 0806.P.0103 dated July 2020, at 2 Barkeley Drive, Seaforth, Liverpool L21 4LX and subject to the following condition:
  - 1) No more than four persons shall be resident at the property at any time.
2. It is directed that the enforcement notice is varied by the deletion of two months and the substitution of four months as the period for compliance. Subject to this variation the appeal is dismissed and the enforcement notice is upheld insofar as it relates to the use as a five studio HMO and planning permission is refused in respect of the change of use and conversion of the dwellinghouse to a 5 - studio HMO on the application deemed to have been made under s177(5) of the 1990 Act as amended.

### Preliminary Matter

3. The terms of the appeal on ground (a) derive directly from the alleged breach of planning control set out in the notice. Nevertheless, I do have the power under s177(1)(a) of the 1990 Act to grant planning permission for any part of the matters stated in the notice. I am also required to consider whether there is an obvious alternative which could overcome the planning difficulties, at less cost and disruption than total cessation of the use as currently required by the notice.

4. Under the ground (f) appeal the appellant proposes that if use as a five bedroom/five person HMO is not found to be acceptable, permission be granted for use as a four-bedroom/four person HMO. In this respect they have submitted a floor plan which shows room two being used as a lounge which would also then enable the outdoor amenity space to be accessed from within the property and used by all occupants. This proposal has been previously submitted to as a planning application<sup>1</sup> and subsequently refused by the Council, since the appeal was made.
5. However, since the use of the property as a four bedroom HMO would form part of those matters constituting the breach as stated in the notice, it is therefore open to me to consider the merits of the alternative proposal under the ground (a) appeal. In doing so I have had regard to the Council's reason for refusal.

### **The appeal on ground (a) and the deemed planning application**

6. The main issue is the effect on the living conditions of current and future occupants with particular regard to the standard of accommodation.
7. The Council's Flats and Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2018) (SPD) sets out minimum internal room sizes for HMOs. In this case there is dispute between the parties about which are the relevant standards. Whilst the rooms have double beds, the appellant confirmed that the rooms are let on a single occupancy basis and that there are five occupants. In the absence of contrary evidence, I have determined the appeal on this basis.
8. The rooms include a kettle, fridge, small work surface and some storage. Such facilities whilst normally found in kitchens are limited, and since the occupants have access to a communal kitchen, I consider it is reasonable to apply those standards relating to single room bedsits without kitchen facilities. However, there is no communal living room or lounge area, the only inside space for occupants outside of their bedrooms is the modest kitchen, which is not reasonably large enough for use as a communal dining or sitting area. Accordingly, I consider the standard to be applied is 15sqm. In this case all the rooms fall short of this standard.
9. The SPD recommends that all residents in HMO schemes have access to communal areas in which they can spend time to relax, socialise, eat meals etc. It goes on to state that this is particularly important as residents will otherwise only have one room to spend the majority of their time. However, if the rooms provided are spacious i.e., they meet the standards set out in the SPD, then the Council recognises that communal rooms may not be required as residents will have sufficient private space.
10. As already noted above, the only indoor space outside of the bedrooms consists of the modest kitchen and it seems unlikely that the occupants could comfortably spend a significant amount of time in that space together. Consequently, it seems occupants would spend a substantial amount of time in their bedrooms.
11. For a five person HMO the SPD requires a minimum of 40sqm outdoor amenity space which is accessible to all residents. The yard area at the house is,

---

<sup>1</sup> DC/2020/01442

according to the Council, around 22sqm which is a significant shortfall. Additionally, this space can only be accessed from within the house through bedroom two and therefore, it seems that only the occupant of bedroom two would reasonably have access to and use of the space.

12. The SPD states that the Council may, in limited exceptional circumstances, accept a lower amount of amenity space if it is not possible to meet these standards, including where the proposal is within easy walking distance to a local centre and where the benefits of being close to community facilities and public transport are significant.
13. Whilst the appellant stated that there are public parks within walking distance, they provided no details about how far away these are and, in any case, these provide a different function to private residential amenity space and as such do not provide a substitute.
14. Overall, considering the shortfall in room sizes, the need to utilise bedrooms due to the very limited communal space available and the absence of outdoor amenity space for all residents, I find that the accommodation is undersized, resulting in deficient residential quality to the detriment of the living conditions of the existing and future occupants.
15. Consequently, the use is contrary to Policy HC4 of the Sefton Local Plan which requires that there should be no significant harm to the living conditions of occupants. It also conflicts with the National Planning Policy Framework (the Framework) which requires a high standard of amenity for all existing and future users of buildings.
16. There is adequate space for bin storage, and this would not have been a reason alone to dismiss the appeal.
17. That the house could be occupied by a family of five does not alter my judgement since family occupation is different to occupation by unrelated individuals. Similarly, that the Council identified no other harm, is a neutral matter which cannot outweigh my findings.
18. However, the appellant's proposed alternative would see room two being used as a lounge which would mean that the occupants would have access to a communal lounge and the outdoor amenity space.
19. In the case, where occupants have access to a communal living room/lounge area, the bedrooms would need to provide at least 10sqm of space. All the bedrooms would achieve that standard and the kitchen and lounge would provide the required 7sqm and 11sqm.
20. The outdoor amenity space required for a four person HMO would be 30sqm. At 22sqm there would remain a shortfall however, whilst I consider the provision of outdoor space is important, based on my site observations it appears that the space would be sufficient for the intended number of occupants, including for drying clothes and socialising. As such and considering the generally transient nature of occupants of HMOs, I find that the shortfall in outdoor space would not be materially harmful to the living conditions of the occupants.
21. The Council referred to and provided copies of three appeal decisions in support of their argument on this matter. Those cases all related to the creation of self-contained flats. In the King Street case the shortfall was

significant and only two of six apartments would have direct access to outdoor space. In the Linacre Road decision, it was a combination of a shortfall in the size of both the internal and external accommodation which was considered to be harmful. Finally, in the Peel Road decision, two of the flats would have had small balconies and the occupants of the ground floor flat would have had no access to private or communal outdoor space. I consider none of these cases are directly comparable to the appeal development either in terms of the type of accommodation or shortfall in provision and they do not alter my judgement.

22. Although there would be conflict with the SPD in terms of the size of the outdoor amenity space, the proposed alternative would accord with the overall aims to ensure a good standard of accommodation for occupants.
23. Given my above findings, I consider that the use as a four bedroom/person HMO, would have an acceptable effect on the living conditions of the occupants having regard to the proposed standard of accommodation. Therefore, there would be no conflict with the amenity protection aims of Policy HC4 of the Sefton Local Plan or the Framework.

#### *Conclusion on ground (a)*

24. For the reasons given, I find that the current use as a five studio HMO is unacceptable. However, since the appellant's alternative, would resolve the harm caused, I find this to be acceptable. I therefore intend to grant planning permission under s177(5) of the 1990 Act for the use proposed with a reduction in the number of bedrooms and occupants from five to four, with room two being used as a lounge.

#### **Conditions**

25. The permission is subject to the plans specified and a separate plans condition is not necessary.
26. A condition limiting the number of occupants to four is necessary in the interests of safeguarding the living conditions of existing and future occupants.

#### **The appeal on ground (f)**

27. The appellant's case under ground (f) I have already considered in detail under ground (a). Although planning permission has been granted in respect of parts of the development enforced against, the notice has been upheld without varying any requirements relating to them, since this could have given rise to two separate planning permissions, namely the one that has been granted in this appeal decision and the one that would be deemed to be granted by section 173(11) due to under-enforcement.
28. Attention is drawn to the provisions of section 180(1) as to the effect on the notice of the permission that has been granted. This provides that where planning permission is granted after the service of a copy of the notice for any development already carried out, the notice shall cease to have effect insofar as it is inconsistent with the planning permission.
29. The appeal on ground (f) therefore fails.

### **The appeal on ground (g)**

30. The appeal on ground (g) is that the period for compliance with the notice falls short of what is reasonable.
31. The appellant seeks to extend the period for compliance so that the occupants of the HMO can have more time to find alternative accommodation however, they did not specify what they consider a reasonable period to be. The appellant referred to the Government regulations<sup>2</sup> requiring landlords to give tenants six months' notice of their intention to seek possession, except in the most serious cases. I am aware that these measures were extended until 31 March 2021 however, I am not aware that they have been extended further.
32. Nevertheless, and whilst it is never possible to guarantee that occupants can find somewhere new to live, the HMO was occupied on the date of my visit and I must ensure anyone who will be deprived of their home is given a reasonable period of time to look for other housing.
33. Consequently, bearing in mind the potential disruption to one of the occupants, I conclude that it is reasonable and proportionate to extend the period from two to four months. The appeal on ground (g) succeeds to that extent.

### **Conclusion**

34. For the reasons given above, I conclude that the appeal should succeed in part only, and I will grant planning permission for the material change of use to a four bedroom HMO in accordance with the following plans: 0806.P.0104 and 0806.P.0103 dated July 2020 but otherwise I will uphold the notice with a variation and refuse to grant planning permission in respect of the use of the dwellinghouse as a five studio HMO. The requirements of the notice will cease to have effect so far as inconsistent with the planning permission which I will grant by virtue of s180 of the Act.

*Felicity Thompson*

INSPECTOR

---

<sup>2</sup> The Coronavirus Act 2020 (Residential Tenancies: Protection from Eviction) (Amendment) (England) Regulations 2020



## Appeal Decision

Site Visit made on 4 May 2021

**by Sarah Manchester BSc MSc PhD MIEnvSc**

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

**Decision date: 28<sup>th</sup> May 2021**

---

**Appeal Ref: APP/M4320/W/20/3265736**

**Eden Salon, 32 Arbour Street, Southport, Merseyside PR8 6SQ**

- 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 Miss Francesca Shaw against the decision of Sefton Metropolitan Borough Council.
- The application Ref DC/2020/00949, dated 9 June 2020, was refused by notice dated 9 September 2020.
- The development proposed is Erection of a two storey extension to the rear of property.

### Decision

1. The appeal is allowed and planning permission is granted for Erection of a two storey extension to the rear of property at Eden Salon, 32 Arbour Street, Southport, Merseyside PR8 6SQ in accordance with the terms of the application, Ref DC/2020/00949, dated 9 June 2020, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drg No 1 – Location Plan and Site Plan; Drg No 2 – Proposed Ground Floor and First Floor Plans, as amended by the revised first floor window openings indicated on the plan 'New window drawings'; Drg No 3 – Existing and Proposed Elevations, as amended by the revised first floor window openings indicated on the plan 'New window drawings'.
  - 3) The use hereby permitted shall not commence until a scheme for the mitigation of noise arising from any plant or equipment to be installed on site has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before the use commences and it shall be retained thereafter.
  - 4) The development hereby permitted shall not be occupied until facilities for secure storage of cycles have been provided in accordance with details submitted to and approved in writing by the local planning authority. The cycle storage facilities shall thereafter be kept available for the parking of bicycles.

### Main Issue

2. The main issue is the effect of the proposal on the living conditions of the residential occupiers of 23 Sefton Street, with particular regard to outlook.

## Reasons

3. No 32 is 2 storey attached property on the corner of Arbour Street and Sefton Street. It has a small single storey extension with a monopitch roof to the rear. The ground floor of the property is in use as a hairdressing salon and it has a residential use above. It is in a primarily residential area characterised by traditional semi-detached and detached properties finished in brick and render.
4. The proposal would be a 2 storey rear extension. The ground floor would be set in by roughly 1.3m, and the first floor by roughly 2.5m, from the adjoining property. It would have a hipped roof set below the ridge line of the host property and it would be finished in painted render and with a slate roof to match its host. The Council considers that the visual appearance of the proposal is acceptable and I see no reason to disagree.
5. The rear of No 32 faces the side elevation of 23 Sefton Street, being separated from it by the rear yard of the appeal property and the tall close-boarded boundary fence. The main 2 storey side elevation of No 23 is blank, but a small ground floor window in the side elevation of its rear outrigger extension serves a kitchen. A first floor window in the outrigger is obscurely glazed and it does not serve a habitable room.
6. The original plans illustrated a first floor kitchen window facing the blank main side elevation of No 23. However, the scheme was amended to include a blank first floor rear elevation with a first floor window in the elevation facing Sefton Street. On this basis, there would be no overlooking between habitable room windows or towards the garden of No 23. Moreover, the proposal would be to the north of No 23, such that it would not result in a loss of daylight or sunlight to the neighbouring windows or garden.
7. The ground floor kitchen window in the outrigger of No 23 looks onto the shared boundary fence with the 2 storey rear elevations of Nos 32-34 beyond. The proposal would project out from the main rear elevation of No 32 by approximately 3m. The increase in the bulk of development, at first floor level in particular, would be visible from the kitchen window and the outdoor space to the side of No 23. However, the proposal would not be directly opposite the neighbouring kitchen window. Given the existing context, and by virtue of its separation distance and oblique siting, the proposal would not be dominant or significantly overbearing to the neighbour's kitchen window.
8. My attention has been drawn to the Council's House Extensions Supplementary Planning Document Adopted June 2018 (the SPD). This advises that extensions should not have an overbearing effect on nearby properties, taking account of the position of the neighbouring windows and the way they face in relation to the extension. There should be at least 12m from blank 2 storey walls to neighbouring habitable rooms. In this case, the closest part of the new 2 storey wall would be a little over 11m from the kitchen window of No 23. However, the proposal is not directly behind the neighbouring window and the window faces away from the proposal. Taking into account that the proposal would not significantly harm the outlook from the neighbour's window, there is little evidence that the proposal would be contrary to the guidance in the SPD.
9. Therefore, the proposal would not harm the living conditions of the occupiers of 23 Sefton Street, with particular regard to outlook or an overbearing form of development. It would not conflict with the residential amenity aims of Policies

HC3 or HC4 of A Local Plan for Sefton Adopted April 2017. These require, among other things, that development should not have unacceptable impacts on the living conditions of neighbouring properties, in particular that there should be no loss of outlook nor overbearing or overdominant effect on main windows of habitable rooms. On the basis of the evidence before me, the proposal would not conflict with the guidance in the SPD.

### **Other Matters**

10. There would be no adverse impacts on the habitable room windows of No 32a, with particular regard to outlook and light. However, I note the concerns of the occupier of No 32a in relation to an unacceptable sense of enclosure and loss of sunlight to the rear yard during the late afternoon and evening. Given the orientation of the properties, and the depth, height and separation of the proposal from the neighbouring garden, any direct loss of sunlight to the garden late in the day would be a minor impact. The visual impact of the increase in the bulk of development would be mitigated by the set back of the first floor from the shared boundary. Consequently, while the proposal would be visible from the rear of No 32a, it would not be significantly detrimental to the living conditions of the neighbouring occupiers.

### **Conditions**

11. The council suggested conditions in the event the appeal was allowed. I have assessed these against the tests set out in Paragraph 55 of the National Planning Policy Framework. Although not suggested, the standard condition limiting the lifespan of the planning permission and a condition specifying the approved plans are necessary in the interests of certainty.
12. The ground floor of the proposal would be used in connection with the commercial ground floor use of No 32. A condition securing a scheme of noise mitigation is necessary to protect the living conditions of neighbouring residential occupiers and to ensure any external equipment avoids adverse visual impacts. A condition requiring secure cycle storage facilities is necessary in the interests of promoting sustainable modes of transport.

### **Conclusion**

13. For the reasons set out above, I find that the proposal would not harm the living conditions of neighbouring residential occupiers and it would not conflict with the development plan.
14. Therefore, the appeal should be allowed and planning permission should be granted subject to conditions.

*Sarah Manchester BSc MSc PhD MIEnvSc*

INSPECTOR





---

## Appeal Decisions

Site visit made on 14 May 2021

**by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip**

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

**Decision date: 28 May 2021**

---

**Appeal A Ref: APP/M4320/C/20/3264143**

**Appeal B Ref: APP/M4320/C/20/3264144**

**2A Marlton Avenue, Crosby L23 0SL**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Mr and Mrs Henry Francis Callaway against an enforcement notice issued by Sefton Metropolitan Borough Council. Appeal B is made by Mrs Maureen Callaway.
- The enforcement notice was issued on 5 November 2020.
- The breach of planning control as alleged in the notice is without planning permission and within the last four years, the erection of a boundary fence and posts to the side of the dwelling house (as shown cross hatched on the attached plan Ref: A) in excess of 1 metre in height adjacent to a highway – Liverpool Road, Crosby.
- The requirements of the notice are:
  - a) Remove the fence and posts between points A-B & B-C as shown on attached plan Ref: B.
  - b) Reduce the height of the fence and posts to a maximum height of one (1) metre between points A-B & B-C as shown on the attached plan Ref: B.
- The period for compliance with the requirements is 6 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the 1990 Act as amended. Appeal B is proceeding on grounds (f) and (g).

**Summary of Decision: Appeal A is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision. Appeal B does not fall to be considered.**

---

### Preliminary Matter

1. The Council has clarified that the word “or” was omitted after the first requirement and steps a) and b) were intended as alternatives. I am invited to correct the notice accordingly.
2. I am satisfied that I can make this correction without injustice. Although there has been a slight error in the wording, as acknowledged, it is clear that the requirements were drafted as alternatives since it would not be necessary, or possible, to comply with them both.

### Appeal A on ground (a) and the deemed planning application

#### *Background and Main Issue*

3. The appeal on ground (a) is that planning permission should be granted for the matters alleged. The terms of the deemed planning application are derived from the allegation and, hence, planning permission is sought for the erection of a boundary fence and posts to the side of the dwelling house in excess of 1 metre in height adjacent to a highway – Liverpool Road, Crosby.

4. The main issue is the effect of the development on the character and appearance of the street scene.

*Reasons*

5. The appeal site occupies a corner plot at the junction of Marldon Avenue and Liverpool Road (A565). The front elevation of the house faces onto Marldon Avenue with its side elevation facing towards Liverpool Road. The majority of the unauthorised fence sits alongside the side boundary to Liverpool Road and only a short stretch extends along Marldon Avenue. The remainder of the frontage is bounded by a garden wall with a privet hedge.
6. The property forms the end of a terrace of relatively substantial houses. The area is predominantly residential in character, although Merchant Taylor's School is located opposite and there is another educational establishment in the vicinity. I saw that Liverpool Road is busy and, while this was a snapshot in time, it is likely to be fair assessment given the road connects the city with Crosby and Southport. The presence of the schools will also result in increased activity at arrival and departure times.
7. Boundary treatment in the area is varied. The school opposite has a low timber fence to the playing field, with railings adjoining its parking area. The establishment to the north of the appeal site, Nazareth House, has a high red brick wall to Liverpool Road with railings and planting/trees to Marldon Avenue. The houses in the terraced group have standard height front garden walls with shrubbery, although the house at the opposite end has a high screen behind the wall with artificial greenery. I understand the screen may be unauthorised.
8. The fence subject to the notice is constructed from metal and extends to approximately 2m in height. It is designed to reflect a timber close boarded fence with a trellis and posts topped with ball finials.
9. The fence is prominently located and is highly visible due to the corner location, adjacent to a busy road. However, its design and colour softens an otherwise solid and bland appearance and the trellis detailing adds visual interest to the structure. Garden walls of a standard height are typical, however, there is not a consistent type of boundary treatment in the vicinity. The fence is seen in the context of the other types of enclosure nearby, in particular, the brick wall to Nazareth House. Also, the majority of the front wall and hedge along Marldon Avenue is unaltered, which is important. This forms a transition between the higher fence on Liverpool Road and maintains linkages with the garden walls further along Marldon Avenue.
10. In my opinion, the fence is not overly obtrusive and it does not stand out as a dominant or uncharacteristic feature.
11. I understand that the solid panel fence erected at No 199 Liverpool Road was refused planning permission and a subsequent appeal was dismissed<sup>1</sup>. The character of that site and the design of the fence differed sufficiently from the matters before me to justify a different decision. A further appeal at No 43 Moorgate Avenue is referenced<sup>2</sup>, however, I have limited details of that case and I am unable to make an informed judgement as to its relevance.

---

<sup>1</sup> Ref APP/M4320/D/19/3234374 dated 23 October 2019.

<sup>2</sup> Ref APP/M4320/D/18/3213398 dated 7 December 2018.

### *Other Matters*

12. I understand that Merchant Taylors School is a grade II listed building. The Council has not suggested that the development has an impact on the setting of the listed building and there is no reason for me to find otherwise. I conclude that the setting of the listed building would be preserved in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### *Conclusion*

13. For the reasons given above, I conclude that the development does not have an adverse effect on character and appearance of the street scene. It accords with Policies EQ2 and HC4 of the Local Plan (2017) and the Council's Supplementary Planning Document – House Extensions (2018) which, among other things, seek to ensure development responds positively to the character, local distinctiveness and form of its surroundings, while protecting residential amenity. It would meet the aims of paragraph 127 of the National Planning Policy Framework which seeks to promote high quality design.

### **Conclusion**

14. I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected. The appeals on grounds (f) and (g) do not therefore fall to be considered.

### **Formal Decision**

15. It is directed that the enforcement notice is corrected by the insertion of the word "or" after requirement a) in paragraph 5 of the notice.
16. Subject to the correction Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of a boundary fence and posts to the side of the dwelling house in excess of 1 metre in height adjacent to a highway – Liverpool Road, Crosby at 2A Marldon Avenue, Crosby L23 0SL as shown on the plan attached to the notice.
17. Appeal A on grounds (f) and (g) and Appeal B do not fall to be considered.

*Debbie Moore*

Inspector



---

# Appeal Decision

Site Visit made on 18 May 2021

**by Andrew McGlone BSc MCD MRTPI**

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

**Decision date: 27 May 2021**

---

**Appeal Ref: APP/M4320/W/21/3268667**

**Land West of Damfield Lane, Maghull, Merseyside L31 3EL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr Richard Gee of Roman Summer Associates Ltd against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2020/02059, dated 12 October 2020, was refused by notice dated 21 January 2021.
  - The application sought planning permission for variation of conditions 1, 14 and 16 pursuant to planning permission DC/2019/02432 approved 03/08/2020 to introduce gated access to the development without complying with conditions attached to planning permission Ref DC/2018/01681, dated 22 August 2019.
  - The conditions in dispute are Nos 1, 14 and 16 which state that:
  - Condition 1: The development hereby granted must be carried out strictly in accordance with the following details and plans: Proposed Location Plan (A003 Rev P05); Proposed Site Plan (A004 Rev P05); Proposed Block Plan (A005 Rev P05); Landscape Layout (101 Rev D); Access Layout (J977 Access Fig 1 Rev E); House Type 1 Plans and Elevations (A101 Rev P02 and A102 Rev P05); House Type 2 Plans and Elevations (A103 Rev P02 and A104 Rev P05); House Type 3 Plans and Elevations (A105 Rev P02 and A106 Rev P05); House Type 2A Plans and Elevations (A107 Rev P02 and A108 Rev P05); Material Specifications (A901 Rev P01); Site Section A-A (A007 Rev P02); Site Section B-B (A008 Rev P02); Landscape Layout (101 Rev G); Planting Plans 1 and 2, (103 Rev A and 104 Rev A); Archaeological Evaluation at Damfield Land document (ARS Ltd Report 2019/224); Otter and Water Vole Survey (Rachel Hacking Ecology, dated October 2019)
  - Condition 14: The approved hard and soft landscaping scheme (Landscape Layout, Drawing Number 101 Rev G and Planting Plans 1 and 2, 103 and 104A) shall be carried out in full within 3 months of occupation. Any trees or plants that within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective shall be replaced with others of a species, size and number as originally approved in the first available planting season.
  - Condition 16: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no gate, fence, wall or other means of enclosure shall be erected other than those expressly authorised by this permission.
  - The reasons given for the conditions are:
  - Condition 1: For the avoidance of doubt.
  - Condition 14: In the interests of visual amenity, protecting the character and appearance of Damfield Lane Conservation Area and ensuring privacy.
  - Condition 16: In order to protect the character and appearance of Damfield Lane Conservation Area and in particular views from the canal.
- 

## Decision

1. The appeal is allowed and the planning permission Ref DC/2020/02059 for variation of conditions 1, 14 and 16 pursuant to planning permission

DC/2019/02432 approved 03/08/2020 to introduce gated access to the development at Land West of Damfield Lane, Damfield Lane, Maghull, Merseyside L31 3EL granted on 21 January 2021 by Sefton Metropolitan Borough Council, is varied by deleting conditions 1, 14 and 16 and substituting for them the conditions in the attached schedule.

### **Preliminary Matters**

2. As part of the appeal, a revised plan has been submitted by the appellant to resolve the discrepancy relating to the width of the gaps between the railing bars shown on the CGI image and the proposed elevation of the access gates. This change is minor and would not prejudice the Council or interested parties. I have therefore taken this plan into account in reaching my decision.
3. A Section 106 Agreement (s106) has been submitted as part of the appeal. This would update the provisions of an agreement relating to a previous scheme facilitating a community orchard and the management of it.

### **Background and Main Issue**

4. Planning permission was granted on appeal in June 2019 for 14 no. 4 bedroom detached dwellings on the site<sup>1</sup>. Since then, the Council has granted planning permission to vary condition no. 2<sup>2</sup> of that permission to allow for changes to the design, materials and internal layout of house types and landscape layout. A non-material amendment was also granted by the Council for changes to two house types and landscaping<sup>3</sup>. Development on site is now progressing but the dwellings are not yet ready for occupation.
5. The main issue is whether the proposed access gates would preserve or enhance the character or appearance of the Damfield Lane Conservation Area (CA), and the setting of St Andrew's Church, a Grade II listed building.

### **Reasons**

6. The site lies within the Hall Lane Character Area. This is one of the oldest parts of Maghull and contains developments of a varied forms, style and type. The site is bound on its three sides by Damfield Lane, the grounds of St Andrew's Church, and the Leeds and Liverpool Canal. Mature trees line Damfield Lane and populate the church grounds. The CA is focussed around a historic group of buildings which include the church. The informal arrangement of buildings set within prominent and mature tree groupings, with boundary walls and a relationship to the canal positively contribute to the significance of the CA.
7. The A59 dual carriageway and flyover are to the north-west of the CA. The sight and sound of this strong physical boundary allied to development in the area affects the CA's alleged rural vernacular. From the A59, the CA and the church are largely concealed by the mature trees. There are glimpsed views of the upper part of the church tower which is experienced more easily from the canal towpath or Damfield Lane opposite the access to the appeal site. The listing description for the church remarks that it 'achieves a successful blend with both its semi-rural environment and with other nearby listed structures to form a well-balanced group.'

---

<sup>1</sup> Appeal Decision Ref: APP/M4320/W/19/3220771

<sup>2</sup> Council Ref: DC/2019/02432

<sup>3</sup> Council Ref: DC/2020/02323

8. The access road to the development provides a key vista of the upper part of the church tower from Damfield Lane. This is not a historic vista as it has been revealed due to development on the site. Even so, it makes a positive contribution to the setting of the CA and in turn its significance. The vista is experienced by road users passing in a north-westerly direction for the section of the lane around its junction with the access. Owing to the speed of travel, the vista is mainly be experienced by non-motorised road users. Mature trees screen the lower part of the church. Passers-by travelling in a south-easterly direction do not experience the vista due to the alignment of the access, the siting of the approved dwellings and mature trees.
9. The proposed access gates would be set back from the road and take architectural cues from the development's contemporary style, appearance, and finish. The gates would be a solid feature across the site's entrance and within the foreground to the vista to the church tower, but they would not, despite their height, inhibit views of the upper part of the church tower which would extend above the height of the proposed gates. Gaps between each railing would allow views down the access and towards the church. The locality may not contain a boundary treatment of a similar design, but there are a range of fences and walls nearby of different scales. As such, I do not consider that the proposal would unduly draw attention away from the vista or how the church or CA are experienced as the sight line would be maintained.
10. Accordingly, I conclude that the proposed access gates would preserve the character and appearance of the CA and the setting of St Andrew's Church. The proposal would therefore accord with Policies EQ2, NH9, NH11 and NH12 of A Local Plan for Sefton, and Policy MAG 4 of the Maghull Neighbourhood Plan 2017 – 2037; which jointly, among other things, seek high quality design that responds positively to the character, local distinctiveness and form of its surroundings so that it preserves or enhances the significance of Sefton's heritage assets and their settings, having regard to scale and detailing.

#### *Planning Obligation*

11. The s106 would continue the previously approved access arrangement<sup>4</sup> that requires the public to make a booking with a management company to access the community orchard. Thus, there proposed gated access would not alter the arrangements previously put in place albeit they would ensure that access is in a controlled manner even if there is not crime or a fear of crime in the area. No concerns are raised about the s106 meeting the tests of the Framework and Regulation 122 of the Community Infrastructure Regulations. I agree.

#### **Conclusion and conditions**

12. Decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. I shall impose all those that I consider remain relevant, having regard to the suggested planning conditions provided by the Council.
13. A plans condition is necessary to provide certainty. Conditions are necessary in the interests of highway safety for a construction management plan, the proposed access on to Damfield Lane, off-site works for pedestrian footways,

---

<sup>4</sup> Appeal Decision Ref: APP/M4320/W/19/3220771

dropped crossing and tactile paving and markings and signage. For the same reason, conditions are necessary for the surfacing of areas to be used by vehicles, to ensure a Traffic Regulation Order is brought into effect, and to secure street lighting. A condition to secure electric vehicle charge points is necessary to mitigate and adapt to the effects of climate change. Conditions are necessary for tree protection measures, hard and soft landscaping and to control future development on the site in the interests of the character and appearance of the CA. A condition about fibre broadband is necessary to ensure that future occupants have advanced, high quality and reliable communications infrastructure. In the interest of providing enhanced ecological habitats a condition is necessary for bird boxes, swift bricks and sparrow terraces. So that Japanese Knotweed is eradicated a condition is necessary. A condition is necessary for a sustainable drainage system to ensure satisfactory drainage.

14. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed conditions but substituting them and restating those undisputed conditions that are still subsisting and capable of taking effect.

*Andrew McGlone*

INSPECTOR

#### SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following details and plans: Proposed Location Plan (A003 Rev P07); Proposed Site Plan (A004 Rev P07); Proposed Block Plan (A005 Rev P07); Landscape Layout (101 Rev P); House Type 1 Plans (A101 Rev P03) and Elevations (A102 Rev P06); House Type 2 Plans (A103 Rev P03) and Elevations (A104 Rev P06); House Type 3 Plans (A105 Rev P03) and Elevations (A106 Rev P06); House Type 2A Plans (A107 Rev P03) and Elevations (A108 Rev P06); House Type 2B Plans (A109 Rev P01) and Elevations (A110 Rev P02); Planting Plans 1 and 2 (103 Rev D and 104 Rev D); Interpretation Board Detail and Frame (confirmed as 3 no. 1.3m x 1.1m); Access Layout (J977 Access Fig 1 Rev E); Proposed Gates (A909 Rev P07); Material Specifications (A901 Rev P01); Site Section A-A (A007 Rev P02); Site Section B-B (A008 Rev P02); Planting Plans 1 and 2 (103 Rev A and 104 Rev A); Archaeological Evaluation at Damfield Land document (ARS Ltd Report 2019/224); and Otter and Water Vole Survey (Rachel Hacking Ecology, dated October 2019).
2. The provisions of the approved Construction Traffic Management Plan (Brierstone), confirmation to Canal and River Trust Third Party Works Agreement email dated 14th February 2020 and Initial Site Setup and Traffic Management Plan (as per approval of details application DC/2019/02216) shall be implemented in full during the period of construction.
3. Tree protection barriers as specified within the Arboricultural Method Statement shall be maintained in a satisfactory manner around the outer limit of the crown spread of all retained trees until the development is completed. During the period of construction, no material shall be stored, or trenches dug within these enclosed areas.
4. The approved sustainable drainage system (Proposed Drainage Plan (18-1023-210

Rev P10), Attenuation Pond (18-1023-205 Rev P3), Sustainable Urban Drainage Management Plan and email correspondence dated 1st March 2021 confirming all aspects of the sustainable drainage system will be maintained by the Development's Management Company) shall be fully constructed prior to occupation of development and be managed and maintained thereafter in accordance with the approved details.

5. A scheme of works for the proposed vehicular access on to Damfield Lane must be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until this means of access has been constructed in accordance with the approved scheme.
6. A scheme of works for the following off-site improvements and alterations must be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until these works have been carried out in accordance with the approved schemes:- construction of new 2 metre wide footways on either side of the proposed access with dropped crossing to the east side of Damfield Lane; new dropped crossing and tactile paving on either side of the new access; and appropriate carriageway markings and signage.
7. No part of the development shall be brought into use until areas for vehicle parking, turning and manoeuvring have been laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and these areas shall be retained thereafter for that specific dwelling.
8. No part of the development shall be brought into use until a Traffic Regulation Order for a 20mph speed limit on the proposed access road has been implemented in full.
9. No dwelling shall be occupied until all street lighting has been installed in accordance with the following approved plans and details; Bollard Lights Technical Specification Sheet, Street Lighting Calculations document and Proposed External Lighting Layout (169/E01 Rev P1).
10. No dwelling shall be occupied unless and until an electric vehicle charging point for that dwelling has been installed and is operational in accordance with the following approved details and plans; WallPod:EV Technical Data Sheet, Proposed Electrical Services Layout (House Types 1, 2, 2a and 3) (169/HT1/E01 T1, HT2/E01 T1, HT2A/E01 T1 and HT3/E01 T1). The approved infrastructure shall be permanently retained thereafter.
11. No dwelling hereby approved shall be occupied until details of full fibre broadband connections to all proposed dwellings within the development has been submitted to and approved in writing by the Local Planning Authority. The infrastructure shall be installed prior to occupation and made available for use immediately on occupation of any dwelling in accordance with the approved details.
12. The approved bird boxes to be fixed to trees shall be fitted prior to occupation of any dwelling, while swift bricks and sparrow terraces must be included within the construction of each dwelling (as per approval of details application DC/2019/02216).
13. The recommendations of the approved Japanese Knotweed Method Statement



dated 6th January 2020 along with the 30th January clarification letter, Cross Section of Excavation (JK19- 5740-07 Rev A) and full Excavation Option in Relation to Horse Chestnut Tree (JK19-5740-06) shall be carried out prior to the occupation of the development.

14. The approved hard and soft landscaping scheme (Landscape Layout, Drawing Number 101 Rev P and Planting Plans 1 and 2, 103 and 104A) shall be carried out in full within 3 months of occupation. Any trees or plants that within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective shall be replaced with others of a species, size and number as originally approved in the first available planting season.
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no garages, outbuildings or other extensions to a dwelling shall be erected other than those expressly authorised by this permission.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no gate, fence, wall or other means of enclosure shall be erected other than those expressly authorised by this permission.

END OF SCHEDULE



## Appeal Decision

Site Visit made on 13 April 2021

**by Sarah Manchester BSc MSc PhD MIEnvSc**

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

**Decision date: 30<sup>th</sup> April 2021**

---

### **Appeal Ref: APP/M4320/D/20/3266008**

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

- 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 Sophie Hartley against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2020/01866, dated 17 September 2020, was refused by notice dated 18 November 2020.
  - The development proposed is 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).
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for 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) in accordance with the terms of the application, Ref DC/2020/01866, dated 17 September 2020, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Ref A001 Rev P01 - Existing Location Plan, 25.01.2019; Ref A301 Rev 14 - Proposed Ground Floor, 18.08.2020; Ref A302 Rev 13 - Proposed Upper Floors, 18.08.2020; Ref A401 Rev 14 - Proposed Front & Rear Elevations, 16.11.2020; Ref A402 Rev 13 - Proposed Side Elevations, 18.08.2020; Ref A004 Rev P06 - Proposed Site Plan, 27.10.2020; Ref A006 Rev P02 - Proposed Boundary Treatments, 27.10.2020; HYVERT - IWantPlants – living wall system specification document, 08.10.2020.
  - 2) The roof area of the extensions at first floor level shall not be used as a balcony, roof terrace, roof garden or other outdoor amenity area.
  - 3) Within 3 months of the date of this decision, the first floor rear Juliet balcony balustrades and the Green Wall (shown on plan Refs A401 Rev 14 - Proposed Front & Rear Elevations and A402 Rev 13 - Proposed Side Elevations) shall be installed and once installed the Juliet balcony balustrades and the Green Wall shall be retained thereafter.
  - 4) The second floor rear terrace shall not be brought into use until the side facing glass balustrades (shown on plan Refs A401 Rev 14 - Proposed Front & Rear Elevations and A402 Rev 13 - Proposed Side Elevations) have been

fitted with obscure glazing. Once installed, the obscure glazing shall be retained thereafter.

### **Applications for costs**

2. An application for costs was made by Sophie Hartley against Sefton Metropolitan Borough Council. That application is the subject of a separate Decision.

### **Procedural Matters and Background**

3. Planning permission Ref DC/2019/00263 was granted in April 2019 for erection of two-storey extensions to both sides and rear of the property and alterations to the roof incorporating 3 roof lights to the front and dormer extension to the rear with balcony. The permission has been implemented, but the works have not been carried out in accordance with the approved plans. The appellant sought to address this by application Ref DC/2020/00542 for a non-material amendment, refused in March 2020 on grounds that the amendments were material. A subsequent application Ref DC/2020/00697 for variation of condition 2 pursuant to planning permission DC/2019/00263 to allow alterations and modifications to the original approved design was withdrawn following a resolution by the Council in July 2020 to refuse it.
4. The application subject of the appeal is a resubmission of the withdrawn scheme. It differs from the extant permission in a number of ways including changes to the set back of the side extensions, increase in the size of the rear dormer and the first floor extension, alterations to windows and an extension of the roof area at first floor level to overhang the rear ground floor elevation. The amended plans reflect the development that has been constructed and which the appellant is seeking to retain. I have determined the appeal accordingly.
5. The Council's reasons for refusal include grounds relating to impacts on the living conditions of the neighbouring residential occupiers. An attempt was made to arrange access to the neighbouring property to assess the impact, but no response was received and No 36 was unoccupied at the time of my visit. Consequently, I was unable to view the appeal scheme from the neighbouring land. The third party representation includes photographs of the development taken from the neighbouring land and I was able to view the development from near to the shared boundary within the appeal site. I am therefore satisfied that no party would be prejudiced by my determination of the appeal on the basis of the representations and what I saw during my visit.

### **Main Issues**

6. The main issues are the effects of the development on:
  - i) The character and appearance of the property; and
  - ii) The living conditions of the neighbouring residential occupiers.

### **Reasons**

#### *Character and appearance*

7. The appeal property is a large 2 storey detached dwelling. It is in a residential area comprising dwellings in a range of sizes and styles, including single storey and 2 storey semi-detached and detached dwellings. The similar palette of

- materials, the set back of properties from the street, and the verdant plots with mature planting result in a relatively harmonious character and appearance.
8. No 34 has a long front elevation facing the street, consisting of the original dwelling with subservient 2 storey side extensions at either end finished in materials to match. Although the side extensions have resulted in a significant increase in the width of the property, nevertheless they relate well to the main front elevation. Therefore, viewed from the front, the development is not discordant and it is not out of keeping with the original dwellinghouse.
  9. The rear of the property is overtly contemporary and imposing, being extensively glazed and modular in appearance with the first floor and dormer extensions each set back from the extension below. The extensions are substantially large and they are not finished in materials to match the host property. The development does not respect and it overwhelms the original rear of the property and its roof. However, the individual elements of the development relate well to one another and the high quality design has resulted in a coherent rear elevation.
  10. The rear of the property is not visible from St Andrews Road, with only limited oblique views afforded from the public domain. Glimpsed between No 34 and No 36, the rear ground floor extension is hidden behind the tall wall between the properties and the successively smaller rear first floor and dormer extensions appear subservient and they are not prominent. Viewed from locations to the front of No 32 and the intervening open land, the large ground floor extension is partially screened by the close-boarded boundary fence. The side elevation of the first floor extension can be seen, but the materials match the 2 storey gable end of the side extension. Viewed from the side, the development is not prominent or visually obtrusive. Consequently, when viewed from the public domain the development does not appear out of keeping and it does not detract from the appeal property.
  11. Therefore, on balance, and taking into account the high quality design and the substantially similar development previously approved, I find that the appeal scheme does not conflict with the design and visual amenity aims of Policies EQ2(3) and HC4 of A Local Plan for Sefton Adopted April 2017 (the LP). These require, among other things, that development should be high quality and it should make a positive contribution to its surroundings.

#### *Living conditions*

12. The Council's reason for refusal refers to the excessive bulk, scale and massing of the proposal being harmful to the living conditions of neighbouring properties. However, there is little substantive evidence in relation to the particular harm that would arise. Policy HC4 of the LP requires development to avoid a significant reduction in the living conditions of neighbouring occupiers with particular regard to loss of outlook from main windows of neighbouring habitable rooms, loss of light and overshadowing, overbearing effects on habitable rooms and loss of privacy. I will consider each of these in turn.
13. The side elevation of the neighbouring property, No 36, includes a kitchen door and what appears to be a secondary bedroom window. On this basis, although the sideways extension to No 34 reduces the separation distance between the neighbouring gable ends, it does not result in a loss of outlook from the principle windows of habitable rooms. Moreover, even if the neighbouring first

floor window was a main bedroom window, the extension does not closely approach it such that there would be no significant loss of outlook.

14. By virtue of the orientation of the properties, the increase in 2 storey built development close to the shared boundary will result in an increase in shading to the side of No 36, including its patio area. While the garden of No 36 is large, nevertheless the loss of sunlight to the neighbours' sitting out area would be detrimental to their living conditions. However, I consider that the original appeal property would already have resulted in some shading to the neighbouring patio, such that the development does not result in significant cumulative detrimental impacts.
15. The submitted photographs illustrate that the development is clearly visible from the patio and rear garden of No 36. Moreover, by virtue of its large size and design, the development is undoubtedly conspicuous. However, No 36 is itself a large detached property in a generous plot and the increase in scale and massing of the appeal property is not overbearing to the neighbouring occupiers. Moreover, the introduction of a green living wall to the side elevation of the first floor extension and boundary treatments would soften the appearance and help mitigate the visual increase in the bulk of the building.
16. The development includes extensive glazing at first and second floor levels. There would be a second floor balcony and the protruding flat roof of the ground floor extension could be used as an outdoor space. Irrespective that there would be no overlooking between neighbouring windows, there would be opportunities to overlook the garden of No 36. However, the balcony would be surrounded by a glass balustrade obscurely glazed to the side to prevent close overlooking into the garden. Juliet balconies would be fitted to the first floor sliding doors in the side extensions to prevent access to the adjoining flat roof. The use of the roof of the ground floor extension as an outdoor area could be controlled by condition. Consequently, there would be no significant increase in overlooking or loss of privacy to the neighbouring occupiers of No 36.
17. Therefore, the proposal would not result in significant harm to the living conditions of neighbouring residential occupiers. It would not conflict with the residential amenity aims of Policies EQ2 or HC4 of the LP.

### **Other Matters**

18. The detailed third party representation made on behalf of the occupier of No 36 raises concerns including in relation to the development not being built in accordance with the approved plans, the accuracy of the plans and the visual representations, disruption during construction, and the removal of garden planting and the pond. While I understand neighbour's concerns, the development that has been built is substantially the same as the scheme illustrated on the submitted plans. While I have had regard to the other matters raised, they do not alter my findings in relation to the main issues.

### **Conditions**

19. The Council has suggested planning conditions in the event that the appeal was allowed. I have assessed these against the tests set out in Paragraph 55 of the Framework. The development has been carried out such that the standard condition limiting the lifespan of the planning permission is not necessary. However, I have specified the approved plans in the interests of certainty.

Conditions restricting the use of the ground floor extension roof and securing the Juliet balconies and obscure balustrade glazing are necessary to protect the privacy of the neighbouring occupiers. A condition relating to the living green wall is necessary in the interests of visual amenity.

**Conclusion**

20. For the reasons set out above, the appeal scheme would not conflict with the development plan. Therefore, the appeal should be allowed and planning permission should be granted, subject to conditions.

*Sarah Manchester*

INSPECTOR



---

## Appeal Decision

Site visit made on 15 February 2021 by Hannah Ellison BSc (Hons) MSc MRTPI

**Decision by R C Kirby BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 5 March 2021**

---

**Appeal Ref: APP/M4320/W/20/3262749**

**16 Waterway Avenue, Netherton L30 8RQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr Carl England against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2020/01085, dated 23 June 2020, was approved on 20 August 2020 and planning permission was granted subject to conditions.
  - The development permitted is the erection of a single storey extension to the rear of the dwelling house and a detached garage.
  - The condition in dispute is No 4 which states that:
    - a) *A scheme of works for the closure and reinstatement of the existing vehicular and/or pedestrian access on to Wheatfield Close shall be submitted to and approved in writing by the Local Planning Authority.*
    - b) *No part of the development shall be brought into use until the existing vehicular and/or pedestrian access on to Wheatfield Close has been permanently closed off and the footway reinstated. These works shall be in accordance with the scheme approved under (a) above.*
  - The reason given for the condition is:  
*In the interests of highway safety.*
- 

### Decision

1. The appeal is allowed and the planning permission Ref DC/2020/01085, for the erection of a single storey extension to the rear of the dwelling house and a detached garage at 16 Waterway Avenue, Netherton L30 8RQ, granted on 20 August 2020 by Sefton Metropolitan Borough Council, is varied by deleting condition 4.

### 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.

### Background and Main Issue

3. Planning permission has been granted for an extension and a detached garage to the rear of the appeal dwelling. This appeal seeks permission to carry out the development without complying with condition 4 of that permission which requires the closure of an existing vehicular access onto Wheatfield Close and the reinstatement of the footway. This condition was attached in the interests of highway safety.

4. The main issue is the effect that removing the condition would have on highway safety.

### **Reasons**

5. The appeal site is a corner plot on Waterway Avenue with Wheatfield Close. The boundary fence along the Wheatfield Close perimeter of the site is continuous, with no openings along it. Thus, whilst the crossover remains, vehicular access into the site is physically blocked.
6. The Council has not provided any evidence to substantiate their concerns with the existing access in terms of highway safety. I note that the edge of the footway dips away slightly towards the carriageway and there is a break in the existing grass verge. However, the dip is limited and is at the outer edge of the footway where it is unlikely that pedestrians would be walking due to the presence of the adjacent grass verges. They would therefore be unlikely to experience the slight change in levels within this part of the pavement.
7. The immediate stretch of footway is also continuous along this part of Wheatfield Close and is finished in one consistent material. As such, there are no hazards for pedestrians walking along this stretch of footway or issues of accessibility. Furthermore, there is nothing before me to indicate that the retention of the vehicular access would have any harmful effect on the safety of road users.
8. Consequently, the retention of the existing access would not lead to significant harm to highway safety. My attention has not been drawn to any development plan policies. However, the development as proposed without compliance with the condition would adhere to the National Planning Policy Framework (the Framework) which seeks to create places that are safe, secure and attractive and minimise the scope for conflicts between pedestrians, cyclists and vehicles.
9. Condition 4 is not therefore considered reasonable or necessary and thus does not meet the tests set out in paragraph 55 of the Framework. As such, it should be deleted in its entirety.

### **Conclusion and Recommendation**

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

*H Ellison*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

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

*RC Kirby*

INSPECTOR





## 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: 10<sup>th</sup> February 2021

---

### Appeal Ref: APP/M4320/W/20/3262057

#### Bootle Cricket Ground, Wadham Road, Bootle, L20 2DD

- 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 Bootle Cricket Club against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2020/00636, dated 14 April 2020, was refused by notice dated 24 July 2020.
  - The development proposed is the erection of safety netting/fencing on road boundary of cricket ground.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of safety netting/fencing on the road boundary of cricket ground at Bootle Cricket Club, Wadham Road, Bootle, L20 2DD in accordance with the terms of the application, Ref DC/2020/00636, dated 14 April 2020, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2010/442-02 Rev D and site location plan.
  - 3) The netting, posts and fencing hereby permitted shall be coloured dark green within 3 months of their installation or before they are first used for a match whichever is the sooner.
  - 4) Prior to the netting, posts and fencing being used for a match a management plan, which includes details on how the netting, posts and fencing will be maintained shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.

### Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupants of 170 to 212 (evens only) Wadham Road, with regards to outlook and the other considerations raised.

### Reasons

3. The cricket club lies within an area largely characterised by residential dwellings. A two storey terraced row lines Wadham Road. A mixture of single storey and two storey residential properties line the site's eastern boundary. Ground levels gradually fall along Wadham Road from its junction with Hawthorne Road. A low wall and railings extend along the site's southern

boundary. Behind this, part way along the boundary, there are a row of posts that support protective netting. The netting was not in place at the time of my visit, but it is usually erected for the duration of the cricket season only.

4. Policy EQ2 of A Local Plan for Sefton (Local Plan) requires in relation to site design, layout and access: the arrangement of buildings, structures and spaces within the site, including density and layout, and the alignment and orientation of buildings, to relate positively to the character and form of the surroundings, and achieve a high quality of design. I agree with the main parties that no harm would be caused to the character and appearance of the area. However, the policy also seeks development to protect the amenity of those within and adjacent to the site.
5. The proposed netting, fencing and posts would be a permanent fixture along the Wadham Road boundary. Collectively, they would be considerably higher than the current boundary treatment despite the minor ground level differences between the pedestrian footway and the cricket club pitch. The paladin fence that would extend along the lower reaches of the boundary would differ to the design and appearance of the existing railings, but it would allow views through to the pitch and its design would protect the amenity of those adjacent to the site at a low-level from cricket balls.
6. However, the proposed posts and netting would harm the outlook of residents facing the Wadham Road boundary of the site. The new boundary treatment would rise well above the height of the terrace not to mention the ground and first floor windows that populate the front elevation. I recognise that the netting would allow views through into the cricket club, and the posts are relatively slim, but the permanency of the proposal across an elongated stretch of boundary would not protect the outlook of residents living opposite.
7. The cricket club is a not for profit organisation that has existed in the local community for many years and runs a series of teams. The appellant outlines that cricket balls tend to fly further than previously due to the evolution of players and technology. It is common ground that a range of different schemes have been tried along the Wadham Road boundary to protect residents and their property from cricket balls passing through or over the boundary. Despite these efforts, these have not proved successful and the club is now in a position whereby they are unable to secure insurance to cover for any damage caused by stray cricket balls. Added to this, there is the possible harm to the health and safety of residents, but also users of Wadham Road. The proposal aims to strike the balance of meeting the requirements of the cricket club and the amenity and safety of persons adjacent to it by providing a resolution for all concerned. The club has been granted funding subject to planning permission being granted for the proposed development.
8. The proposal would overcome the issues experienced by protecting the amenity of those next to the site as required by Local Plan Policy EQ2 which does not confine itself to the consideration of outlook. Local Plan Policy EQ4 is also supportive of the appeal scheme for the same reasons.
9. Balanced against this is the Council's suggestion that retractable posts and netting could be used instead of the permanent option proposed. The Council have not provided any substantive evidence of these products. On the other hand, the appeal scheme has been designed to address the needs of the club and protect resident's amenity from cricket balls. The club also explains that

there are issues with the stability of this type of product at the required height. This is a point which the Council does not dispute.

10. If I were to dismiss the appeal, the existing recycled lampposts and netting would continue to be used and repaired. However, they would still not be high enough to address the situation. The existing nets have been subject of vandalism and complaints from residents due to the fittings used. The club also explain that the netting can quickly become unsightly. Either way, there could be knock-on effects to a community-based club that provides opportunities for physical activity which is important for the health and well-being of communities. It is unclear whether the club would cease to exist, but the proposal would enable the club to modernise and stay at its existing home.
11. Residents were consulted as part of the planning application but also by the club beforehand. The former did not result in any representations being received. While this is not in its own right a reason to refuse or grant planning permission, it is of interest given the context to the case.
12. The proposal would harm the outlook of residents facing the site on Wadham Road. The colouration of the netting, posts and fencing in a single colour would ensure that the boundary would appear as a cohesive entity. However, there are also other factors such as health and safety that outweigh this harm which leads me to an overall conclusion that the proposed development would not harm the living conditions of the occupants of Nos 170 to 212. As such, the proposal would accord with part Local Plan Policies EQ2 and EQ4 which seek to protect the amenity of those adjacent to the site by minimising the risk of adverse impacts which includes damage to health and wellbeing and property.

### **Other matters**

13. In this case, a planning judgement has been required throughout the process to weigh the competing aspects of the proposal against one another. As a result, it does not mean that Members of the Planning Committee cannot make their own mind up on the scheme. They are entitled to do so, and they are not obliged to follow local views either as their judgement should be planning based. In any event, I agreed with the Council about the scheme's effect on outlook, but other parts of my analysis lead me to a different conclusion.

### **Conditions**

14. I have imposed a plans condition in the interests of certainty. Details of the materials to be used for the netting, posts and fencing are not necessary as they are evident from the scheme before me. However, I have imposed an amended version of this condition so that they are coloured in the manner suggested by the Council in the interests of residents living conditions and the character and appearance of the area. For the same reasons and given the background to this case and previous iterations of netting on the boundary, I have imposed a condition to secure a management plan setting out how the netting, posts and fencing will be maintained.

### **Conclusion**

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

*Mr Andrew McGlone*

INSPECTOR