



Appeals Received and Decisions Made

Email: planning.department@sefton.gov.uk

Contact Officer: Mr Steve Matthews 0345 140 0845

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

Appeal Decisions

18 Far Moss Road Crosby Liverpool L23 8TQ

Reference: DC/2022/00079 (APP/M4320/D/22/3299317)

Alterations to the approved scheme DC/2020/00413 to

increase the size of the roof terrace to 6.765m and introduce larger privacy screens.

Procedure: Householder Appeal

Start Date: 27/05/2022

Decision: Dismissed

Decision Date: 16/08/2022

Telegraph House Moor Lane Crosby

Reference: DC/2021/01032 (APP/M4320/W/22/3297484)

Erection of a part four/part five storey building for mixed use

including a commercial floorspace (Class E) at ground floor and 74 No. residential apartments (Class C3) on upper floors, roof terraces at fourth floor level and associated works

including access and landscaping.

Procedure: Informal Hearing

Start Date: 23/05/2022

Decision: Withdrawn

Decision Date: 11/08/2022

Telegraph House Moor Lane Crosby

Reference: DC/2021/02920 (APP/M4320/W/22/3299551)

Erection of a part four/part five storey building for mixed use

including a commercial floorspace (Class E) at ground floor and 74 No. residential apartments (Class C3) on upper floors, roof terraces at fourth floor level and associated works

including access and landscaping (alternative to DC/2021/01032).

Procedure: Informal Hearing

Start Date: 10/06/2022

Decision: Withdrawn

Decision Date: 11/08/2022

77 Scarisbrick New Road Southport PR8 6LJ

Reference: EN/2022/00021 (APP/M4320/C/22/3293859)

Appeal against Construction of an outdoor swimming pool and retractable enclosure which is being used to provide swimming lessons which constitutes a material change of use and is not incidental to the enjoyment of the dwellinghouse

Procedure: Written Representations

Start Date: 24/03/2022

Decision: Dismissed

Decision Date: 10/08/2022

Lulworth Road Birkdale Southport PR8 2AT

Reference: DC/2021/02314 (APP/M4320/W/22/3295594)

Application under Prior Notification Procedure for the

installation of 15.0 metre telecommunications monopole and associated ancillary works.

Procedure: Written Representations

Start Date: 25/05/2022

Decision: Dismissed

Decision Date: 10/08/2022

Appeals received and decisions made between 10 July 2022 and 04 September 2022

459 Lord Street Southport PR9 0AQ

Reference: DC/2021/02736 (APP/M4320/W/22/3293755)

Variation of Condition 3 pursuant to planning permission
DC/2017/00968 approved 12/10/2017, to change hours of
business to 07:00 - 02:00 hrs

Procedure: Written Representations

Start Date: 14/04/2022

Decision: Dismissed

Decision Date: 19/07/2022

Poplar Lodge 15B Green Lane, Formby Liverpool L37 7DJ

Reference: DC/2021/02736 (APP/M4320/W/22/3293755)

Erection of a two storey extension to the side following demolition of the
existing side extension/garage, porch to the front and first floor extension
to the rear of the dwellinghouse in addition to alterations to the roof to form
a double-pitch

Procedure: Householder Appeal

Start Date: 18/03/2022

Decision: Allowed

Decision Date: 22/06/2022

New Appeals

38 Waller Street Bootle L20 4PU

Reference: DC/2021/02960 (APP/M4320/W/22/3302854)

Change of Use from a dwellinghouse (C3) to a short term
holiday let (Sui Generis) (Retrospective).

Procedure: Written Representations

Start Date: 19/08/2022

Decision:

Decision Date:

9 Cummins Avenue Formby Liverpool L37 7AL

Reference: DC/2021/01999 (APP/M4320/W/22/3297330)

Erection of a detached two storey dwellinghouse on land to be
severed from 9 Cummins Avenue (Alternative to
DC/2020/02593 refused 29/4/21)

Procedure: Written Representations

Start Date: 13/07/2022

Decision:

Decision Date:

26 Elsworth Close Formby Liverpool L37 2YS

Reference: DC/2021/01677 (APP/M4320/D/22/3301602)

Erection of a part two storey, part first floor extension to the
front incorporating a porch, first floor extension to the side
incorporating a Juliette balcony to the rear, a single storey
extension to the rear and the raising of the ridge height of the
dwelling.

Procedure: Householder Appeal

Start Date: 02/08/2022

Decision:

Decision Date:

64 Thornfield Road Thornton Liverpool L23 9XZ

Reference: EN/2022/00165 (APP/M4320/C/22/3303565)

Appeal against Without planning permission and within the last
four years alterations from a hipped to gable end roof to
incorporate a rear dormer extension and erection of a single
storey extension to the side and rear of the dwellinghouse.

Procedure: Written Representations

Start Date: 26/08/2022

Decision:

Decision Date:

Appeals received and decisions made between [10 July 2022](#) and [04 September 2022](#)

38 Waller Street Bootle L20 4PU

Reference: EN/2022/00159 (APP/M4320/C/22/3302856)
Appeal against Without planning permission and within the last
10 years change of use from a dwellinghouse (C3) to a short
term holiday let (Sui Generis).

Procedure: Written Representations

Start Date: 18/07/2022

Decision:

Decision Date:



Appeal Decision

Site visit made on 26 July 2022

by **G Rollings BA(Hons) MAUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 August 2022

Appeal Ref: APP/M4320/D/22/3299317

18 Far Moss Road, Crosby, L23 8TQ

- 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 Tom Hardwick against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2022/00079, dated 17 January 2022, was refused by notice dated 4 March 2022.
 - The development proposed is alterations to the approved roof terrace to the rear of the property including enlarging the terrace size and introducing larger privacy screens.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of surrounding occupiers, with particular regard to privacy.

Reasons

3. The proposed terrace is on the second floor on a projecting flat roof at the rear of the property. It extends across most of the width of the building and permission exists for an enclosed terrace to cover part of the proposed space with a depth of around 3.5 metres, enclosed to the sides by opaque screens with a height of 1.7m ('the approved scheme'). The appeal scheme incorporates an enlargement of the enclosed area to a depth of about 6.7m, the full extent of the flat roof area, with enclosing side screens of 1.8m height. In both instances, the height of the rear screen would be 1.2m.
4. I viewed neighbouring properties from all parts of the existing flat roof to the extents of the approved and appeal schemes. Windows in the sides and rear elevations at 16 and 20 Far Moss Road were clearly visible from the part of the roof to be covered by the appeal proposal, but obscured in the approved proposal. Additional patio and garden areas could also be viewed more clearly. I took account of the fact that the proposed opaque screens would limit direct overlooking of neighbouring properties from the sides of the terrace in both cases. Nonetheless, in the appeal scheme, it would be possible to stand at the rear precipice of the terrace and look directly into the gardens of adjoining properties. Similar views in the approved scheme would be restricted by the mass of the building below.
5. The terrace would also be visible from the aforementioned areas and despite the opaque screen treatment, could result in neighbours having the impression

of being overlooked. Whilst there would be views from the terrace towards properties adjoining the rear of the appeal site, these are further away than Nos 16 and 20 and the effects of the appeal and approved schemes are not significantly different.

6. Nonetheless, the appeal scheme would lead to a loss of privacy, and this is sufficient for me to conclude that the proposed development would have a harmful effect on the living conditions of surrounding occupiers. It would conflict with the development plan for the area, *A Local Plan for Sefton* (2017), including Policy HC4 which seeks dwelling extensions of a design that does not result in a significant reduction to the living conditions of neighbouring occupiers, amongst other factors. This policy is consistent with the National Planning Policy Framework (2021), particularly paragraph 130 relating to design quality. I have also had regard to the Council's *House Extensions Supplementary Planning Document* (2018).

Other Matters

7. The appellant's reason for the proposed works is to ensure safe maintenance of the flat roof area. The unbalconied area of the roof in the approved scheme would require clearing of debris and cleaning, and I acknowledge that there would be a safety risk in accessing an unsecure area with no edge protection. However, this would have been considered in the design of the permitted scheme. I also appreciate that home improvement works can benefit the local economy, but both the existence of risk and the small economic benefit beyond that of the approved scheme does not outweigh the harm identified in the main issue.

Conclusion

8. There are no material considerations that lead me to a decision that is otherwise in accordance with the development plan for the area.
9. The appeal is dismissed.

G Rollings

INSPECTOR



The Planning Inspectorate

3C
Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line: [REDACTED]
Customer Services: [REDACTED]

Email: [REDACTED]
www.gov.uk/planning-inspectorate

Your Ref:
Our Ref: APP/M4320/W/22/3297484
Further appeal references at foot of letter

Mr Matthew Sobic
Savills (UK) Limited
Belvedere
12 Booth Street
Manchester
M2 4AW

11 August 2022

Dear Mr Sobic,

Town and Country Planning Act 1990
Appeals by Crossfield Exclusive Developments Limited
Site Addresses: Telegraph House and Adjacent Land , Moor Lane, Crosby, L23 2SF and Telegraph House and Adjacent Land, Moor Lane, Crosby, L23 2SF

Thank you for your letter withdrawing the above appeal(s).

I confirm no further action will be taken.

Any event arrangements made for the appeal(s) will be cancelled.

A copy of this letter has been sent to the local planning authority.

Yours sincerely,

Adam Hill
Adam Hill

<https://www.gov.uk/government/publications/planning-inspectorate-privacy-notice>

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Linked cases: APP/M4320/W/22/3299551



Appeal Decision

Site visit made on 28 July 2022

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

an Inspector appointed by the Secretary of State

Decision date: 10 August 2022

Appeal Ref: APP/M4320/C/22/3293859

77 Scarisbrick New Road, Southport PR8 6LJ

- 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.
- The appeal is made by Thomas Howie against an enforcement notice issued by Sefton Metropolitan Borough Council.
- The enforcement notice was issued on 25 January 2022.
- The breach of planning control as alleged in the notice is the construction of an outdoor swimming pool and retractable enclosure which is being used to provide swimming lessons which constitutes a material change of use and is not incidental to the enjoyment of the dwellinghouse.
- The requirements of the notice are:
 - a) Remove the retractable enclosure from the property or reduce its height to no higher than 2.5 metres in order to comply with permitted development rights; and
 - b) Cease using the swimming pool for providing swimming lessons. Only use the swimming pool for purposes which are incidental to the enjoyment of the dwellinghouse.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (g) of the 1990 Act as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and a variation in the terms set out below in the Formal Decision.

Preliminary Matters

1. The enforcement notice concerns a residential property, No 77 Scarisbrick New Road. It is alleged that a swimming pool in the rear garden is used for providing swimming lessons, which the Council argues constitutes a change of use. In cases where there is a dispute as to whether a material change of use has occurred, it is first necessary to establish the correct planning unit, and the present and previous primary (or main) uses of that unit. The planning unit is usually the unit of occupation, unless a smaller area can be identified which is separate and occupied for different and unrelated purposes. In this case, the planning unit comprises the dwelling house and its garden, which is correctly identified in the plan attached to the notice.
2. The next step is to establish to present and previous primary uses. It is clear that the previous use was as a dwelling house, which is a residential use. Further, there is no dispute that the swimming pool in the rear garden is used for providing swimming lessons for paying customers, as well as being used by the family living in the house. There is no physical or functional separation between the swimming pool and the house.

3. As such, the property would be in a mixed use of residential and the provision of swimming lessons. The concept of a mixed use being two or more primary uses existing within the same planning unit or unit of occupation. It is important that the allegation refers to all the components of the mixed use even if only one is required to cease. This is because, where there is a mixed use, it is not open to the Council to decouple elements of it; the use is a single mixed use with all its component activities. Even if the additional components are lawful, the enforcement notice should be corrected, if possible, to describe the mixed use properly.
4. Therefore, it is necessary for me to correct the allegation to - "without planning permission, the material change of use from residential to a mixed use of residential and for the provision of swimming lessons; including the construction of an outdoor swimming pool with a retractable enclosure to facilitate that change of use". I note that the Council is not seeking the removal of the pool, or the enclosure providing it is reduced in height. This acknowledges that a pool may be constructed and used for purposes incidental to the enjoyment of the dwelling house as such. Hence, the requirements would remain as set out in the notice.
5. The Council and the Appellant have agreed that I can use my powers of correction under Section 176(1)(a) of the 1990 Act. I am satisfied I can make such a change to the allegation without injustice since the effect of the notice would remain unchanged. The terms of the deemed planning application would change but the planning issues would not be materially altered.
6. In addition, the ground (b) appeal – that the matters alleged have not occurred as a matter of fact – relies on the argument that the alleged change of use does not amount to a breach of planning control. This is a ground (c) appeal and should be considered as such, which the main parties have agreed.

The ground (c) appeal

7. In order to succeed on a ground (c) appeal, the appellant must show on the balance of probabilities that the matters alleged in the notice, as corrected, do not constitute a breach of planning control. Therefore, I must decide whether a change of use to a mixed use of residential and for the provision of swimming lessons constitutes a breach of planning control.
8. Section 55(1) of the 1990 Act provides a broad definition of 'development', which comprises the carrying out of building, engineering, mining or other operations in, on, over or under land or the making of any material change in the use of any buildings or other land. Development requires planning permission under Section 57(1), and the carrying out of development without permission constitutes a breach of planning control under Section 171A(1).
9. The property is a substantial detached house with a relatively large garden, which is located within a residential area. A swimming pool with a glazed enclosure has been constructed in the rear garden, along the boundary with No 2A Balfour Road. The Appellant advises that the swimming pool is primarily for the benefit of the family living in the dwelling house. It is acknowledged that lessons are offered as a basis for sharing the benefit of the pool with the wider community, whilst also providing a way for the family to afford the maintenance of the pool.

10. The extended use of the pool for providing swimming lessons, combined with the commerciality of the lessons, results in a significant difference in the character of the residential property. There are also off-site effects, which third parties describe as comings and goings in relation to the swimming lessons and associated noise and disturbance, which have planning consequences. I accept that home businesses can operate from residential premises without amounting to a material change of use, but this is dependent on the type of activity and the site-specific circumstances. In this case, the number of customers using the facility, the size of the pool and the hours of use have resulted in a change in character when compared with the previous residential use.
11. I find, therefore, that the activities taking place on site give rise to such materially different planning circumstances that, as a matter of fact and degree, it has resulted in such a change in the definable character of the property that it amounts to a material change of use to the matters alleged. There is no planning permission for that use, and for the reasons given above, the use cannot be considered incidental to the enjoyment of the dwellinghouse. As such the exemption under Section 55(2)(d) of the 1990 Act does not apply and the appeal on ground (c) must fail.

The ground (a) appeal and the deemed planning application

Main Issue

12. The terms of the deemed planning application are derived from the corrected allegation. Therefore, planning permission is sought for the material change of use from residential to a mixed use of residential and for the provision of swimming lessons; including the construction of an outdoor swimming pool with a retractable enclosure to facilitate that change of use. I note the Appellant is not seeking to retain the enclosure in its current form, but I am required to deal with the matters alleged in the first instance.
13. The main issue is the effect of the development on the living conditions of neighbouring occupiers with regard to noise and light pollution.

Reasons

14. The appeal property is a large premises which can accommodate the swimming pool and enclosure while ensuring a good-sized usable garden remains. However, No 77 is close to the junction of Scarisbrick New Road with Balfour Road. The relationship of the appeal property to No 2A Balfour Road is such that the swimming pool is sited along the boundary that forms the rear wall to the neighbour's garden. While No 2A is a large, detached house, the rear garden is relatively modest in depth. Consequently, the swimming pool is situated close to the neighbour's house. In fact, it is closer to the neighbour's house than the host dwelling. The pool also adjoins the side boundary of No 3 Balfour Road, although I saw that it is screened to a certain extent by a rear extension and outbuilding at that property.
15. Although the swimming pool has a moveable enclosure, there is no apparent sound insulation. Lessons are held on a regular basis and I understand they typically take place during the afternoons on weekdays and in the mornings at the weekend. Numbers of customers vary, but the lessons can operate on a 1:1 basis or a 1:3 basis with parents waiting at the poolside. In the winter months the pool is lit to an appropriate level to enable safe use.

16. The Council is concerned about light pollution and noise and disturbance from the use of the pool for swimming lessons. Due to the position of the pool in relation to No 2A, I share the Council's concerns about noise and disturbance. Even on a 1:1 basis, there would likely be parents waiting at poolside. This is in addition to customers arriving and waiting for lessons. This would introduce a level of activity into the rear garden, greater than would normally be expected in a residential area. This would have a harmful impact on the living conditions of No 2A Balfour Road due to the proximity. I appreciate that the pool can be used for the personal enjoyment of the occupants of the appeal premises but this is unlikely to lead to activity on a scale similar to that occurring as a result of lessons.
17. I accept that the pool could be illuminated if it were used for incidental purposes and this aspect may well be comparable to the illumination during lessons. However, the potential for noise and disturbance arising from the commercial use in a residential area, with this particular development layout, remains unacceptable in my judgement.
18. I am aware of the numerous letters of support for the development, in particular, the clear benefits of providing swimming lessons on a 1:1 basis for children, especially those with disabilities or special educational needs which I consider further below. There are also letters from neighbours that state there is no noise and disturbance resulting from the unauthorised use. However, there is also evidence to the contrary from those people living closest to the development.
19. I also note that the premises used to function as a day nursery, but that use ceased and this consideration carries limited weight. I am aware of other commercial venues in the vicinity but I must consider this case on its merits. Other commercial uses in different locations, with different development layouts, may be acceptable. I understand the Appellant's desire to continue to run a business from their home but this does not outweigh my concerns about the impact on neighbours' living conditions.
20. The Appellant draws my attention to planning permission for a public swimming pool to the rear of No 34 Grosvenor Road (Ref DC/2019/02039). It seems that there are elements of this development that are comparable, however, it is difficult for me to make a complete assessment as I am unaware of the site-specific circumstances. In this case, the pool is housed within a fully glazed enclosure with no sound proofing that is very close to a neighbouring house.
21. I have considered whether I could impose planning conditions to make the development acceptable. However, the extent of restrictions to the operation to reduce its impact to an acceptable level would have the effect of negating the planning permission, which would be unreasonable.
22. I appreciate that the Appellant offers an alternative scheme that would include a different type of enclosure. However, this would not overcome my concerns about the use itself.

Conclusion

23. I have considered the benefits of the development for children with special educational needs. Disability is a 'relevant protected characteristics' for the purposes of the Equality Act 2010 and the Public Sector Equality Duty. Hence, I

must have due regard to the need, among other things, to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not. The retention of the development would enable the children with special requirements to continue to access swimming lessons. However, there are other options for securing swimming lessons, albeit these are more limited due to the impact of the COVID-19 pandemic. On the other hand, the harm resulting from the development is considerable. The negative impact on the recipients of swimming lessons of dismissing this appeal would not outweigh the conflict with residential amenity.

24. I find that the development would have an adverse impact on the living conditions of neighbouring occupiers with regard to noise and disturbance. It would be contrary to Policies EQ4 and HC3 of the Local Plan (2017), which seek to protect residential amenity, and the National Planning Policy Framework insofar as it seeks to protect the amenity of existing and future occupiers. The development would not accord with the development plan as a whole and there are no material considerations that indicate a decision should be made otherwise. The ground (a) appeal fails, therefore.

The ground (g) appeal

25. The ground (g) appeal is that the compliance period falls short of what should reasonably be allowed. The Appellant is seeking a longer period to source and install a suitable enclosure. I accept that it will probably take longer than one month to install a suitable replacement. Consequently, I shall vary the compliance period to three months. This will also allow more time for customers to make other arrangements.

26. The ground (g) appeal succeeds to this extent.

Conclusion

27. For the reasons given above, I conclude that the appeal should succeed on ground (g) only. I shall uphold the enforcement notice with a correction and a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

28. It is directed that the enforcement notice is corrected by:

The deletion of the allegation in paragraph 3 of the notice and its replacement with "without planning permission, the material change of use from residential to a mixed use of residential and for the provision of swimming lessons; including the construction of an outdoor swimming pool with a retractable enclosure to facilitate that change of use", and varied by:

The replacement of "one month" with "three months" as the period for compliance in paragraph 5 of the notice. Subject to the correction and variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Debbie Moore

Inspector



Appeal Decision

Site visit made on 1 August 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2022

Appeal Ref: APP/M4320/W/22/3295594

Lulworth Rd/Palatine Rd, Birkdale, Southport PR8 2AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CK Hutchison Networks (UK) Ltd against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2021/02314, dated 18 September 2021, was refused by notice dated 15 November 2021.
 - The development proposed is a 15.0m Phase 8 monopole C/W wrapround cabinet at base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO) under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have nevertheless had regard to Policy EQ2 of A Local Plan for Sefton (April 2017) (the LP) and the National Planning Policy Framework (the Framework) only in so far as they are material considerations relevant to matters of siting and appearance.

Main Issue

4. The effect of the siting and appearance of the proposed installation on the character and appearance of the area, including the Birkdale Conservation Area and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

5. The appeal site is located within the Birkdale Conservation Area (the BCA), whose significance is largely derived from the predominance of large, traditional villas which are set back from the highway within generous plots

with mature landscaping. These features, along with the considerable width of the mainly tree-lined streets, contribute towards a spacious and green parkland setting. The openness of the appeal site reflects the positive features of the BCA.

6. The street furniture in the locality of the appeal site comprises a small bus shelter and street lighting columns which are of a limited height and width and tend to be set back from the footway edge thus are largely screened by trees. The surrounding buildings are also set back from the public realm and are limited in scale. As such, the built form and infrastructure in this locality are not dominant features in the street scene.
7. To the contrary, the proposed installation would be of an excessive height and would be positioned close to the carriageway, in an area where the footway is more open due to its increased width and reduced tree planting and coverage. Although its siting would not impede pedestrian flow, it would however be in a prominent, open position and would be a noticeably dominant feature in the street scene due to the lack of screening. Accordingly, it would be a utilitarian feature that would visually jar with the spacious characteristics of the locality. I am not convinced that conditioning the colour of the installation would overcome these concerns.
8. The appellant asserts that the associated cabinets are permitted development and thus are not subject to prior approval. It has not been demonstrated how they would meet the permitted development requirements and, moreover, as they form part of the telecommunications works that have been applied for it seems to me that the cabinets are only required in conjunction with the proposed monopole, hence it is reasonable to consider the collective effect of the proposed installation.
9. Therefore, the siting and appearance of the proposal would cause harm to the character and appearance of the area, including the significance of the BCA, as it would be an unduly prominent and incongruous feature within an open part of the street scene. Overall, the harm to the significance of the BCA would be less than substantial. Paragraph 202 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
10. The proposal would facilitate improvements to 5G coverage levels and network capacity within the locality and is noted as being essential to bring optimum telecommunications and mobile broadband in the area. I note that the area surrounding the appeal site is somewhat lacking in coverage and there is a congested cell nearby. Chapter 10 of the Framework supports the provision of high-quality communications, noting that advanced, high quality and reliable communications infrastructure is essential for economic growth and social wellbeing.
11. The appellant has provided details of alternative sites which were considered for the proposed development and subsequently discounted. I acknowledge that the immediate area is residential in nature and there are heritage assets and tree canopies which may present issues with particular locations. Nevertheless, some of the alternative locations which were considered were some distance from the nominal, including sites outside of the BCA, yet coverage issues were not always sited as a reason for discounting them. I note

that there is variety in the built form and general streetscape in the wider area, particularly close to some of the considered alternative locations.

12. As such, there is nothing before me to suggest that there are no sites outside of the BCA or residential area which are not within the cell search target area or that they would not provide realistic alternatives. I am not therefore convinced that moving the proposal away from the currently proposed location would place it closer to more sensitive receptors or require a monopole of increased height. Furthermore, the reasons for discounting many of the alternatives are weak. Overall, I am not therefore satisfied that the search and assessment of alternative sites was sufficiently robust or that an exhaustive search for a site that is less harmful than the appeal site has been carried out.
13. Accordingly, although the proposal would result in economic and social benefits, as it has not been satisfactorily demonstrated that there is a need for the development to be sited in the proposed location or that other more suitable sites are not available, this limits the weight I can afford them. As such, the harm I have identified is not outweighed by the need for the installation to be sited as proposed.
14. Insofar as they are a material consideration, the proposal would be contrary to the aim in Policy EQ2 of the LP for proposals to respond positively to the character, local distinctiveness and form of its surroundings, and the Framework's objective of achieving well designed places.

Other Matters

15. I note the various concerns raised by third parties, namely regarding outlook and highway safety, however as I am dismissing this appeal for other reasons there is no need for me to consider these matters. Concerns in relation to the effect of the proposal on property values is a private interest and is not therefore a consideration for the planning system.
16. With regards to potential effects on health, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine.

Conclusion

17. For the reasons given above, I conclude that the appeal should be dismissed.

H Ellison
INSPECTOR



Appeal Decision

Site visit made on 14 June 2022

by **F Rafiq BSc (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 July 2022

Appeal Ref: APP/M4320/W/22/3293755

459 Lord Street, Southport PR9 0AQ

- 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 Nagender Chindam (Sri & Jays Limited) against the decision of Sefton Council.
 - The application Ref DC/2021/02736, dated 19 November 2021, was refused by notice dated 20 January 2022.
 - The application sought planning permission for a change of use from an estate agents (A2) to a restaurant (A3) without complying with a condition attached to planning permission Ref DC/2017/00968, dated 12 October 2017.
 - The condition in dispute is No 3 which state that: "*The premises shall not be open for business outside the hours of 07:00 - 00:00*".
 - The reason given for the condition is: "*In the interests of residential amenity*".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal site comprises of a ground floor restaurant unit which was granted permission (DC/2017/00968) in October 2017. Conditions were imposed, including one that restricted the hours that the use could operate. The application which is the subject of this appeal seeks to vary these conditions to allow an additional two hours of use from 12 midnight to 2am.

Main Issue

3. The main issue is whether the restriction on the hours of use is necessary and reasonable having regard to the living conditions of the occupiers of neighbouring residential properties, with particular reference to noise and disturbance.

Reasons

4. Lord Street is a busy high street in a town centre location which contains a range of ground floor uses, including retail, restaurant and drinking establishments. The site has an external area to the rear of the main building, beyond which is a building that leads on to Stanley Street. It was evident from my site visit that unlike the busy Lord Street with its range of commercial activities, Stanley Street was quieter and contained residential properties. Given the proximity of residential properties along Stanley Street, outdoor activity in this area, such as music and talking would likely cause an

- unacceptable level of noise and disturbance to local residents at a time of day when much lower levels would be reasonably expected.
5. The appellant has said the external seating area can cease at midnight, allowing the business to operate after this time from the remainder of the property. Although further details defining the extent of the external area could be sought and the extended hours be limited to Friday's and Saturday's, I have not been provided with details on how a differing restriction on the business hours between the internal and external areas could be implemented. I was able to see that as well as the main building, there is a further building within the red edge, adjacent to Stanley Street. Whilst the rear door from the main building on Lord Street could be locked, the rear building to Stanley Street would need to be accessed from the outdoor seating area or from Stanley Street itself. It would not be clear how those passing through this space could be differentiated from those utilising this space. As such, based on the evidence before me, I am not convinced that such a restriction could be effectively monitored and enforced given the overall lawful use of the site within the defined appeal site.
 6. The said condition is therefore necessary and reasonable, having regard to the effect that the additional hours of operating would have on the living conditions of neighbouring residential occupiers due to potential noise disturbance. In this respect the proposal would conflict with Policy EQ4 of the Local Plan for Sefton, which seeks, amongst other matters, to minimise the risks of adverse impacts including from noise.
 7. Although the process to obtain a premises licence is rigorous and includes extensive consultation, there is a clear distinction between licensing considerations and those of planning. In the case of the latter, planning permission relates to the use of the land and typically, does not take account of the occupant of the premises at any particular time.
 8. The proposal would support the business in a competitive environment with rising electric utility costs and particular difficulties within the hospitality sector¹, particularly after the Covid-19 pandemic. This would have a wider benefit in supporting local jobs, the vitality and viability of the town centre at night and in heritage terms where there are properties that are currently vacant. Whilst recognising these benefits, particularly for small businesses, they would be significantly off-set by the likely adverse impact upon the neighbouring residential occupiers. I am also unaware that, without the change in opening hours, the business would necessarily struggle in these regards.
 9. My attention has been drawn to various other establishments in the area which have later operating hours than the appeal business. I am not aware of the full circumstances of these referenced cases, including when they were granted planning permissions and their relationship to surrounding residential properties. Although a number of these are said to have outdoor seating to Lord Street, there is no information before me on whether any have seating to the rear, behind the buildings fronting Lord Street. As such, I cannot be certain that any of these other uses are comparable to the appeal scheme.
 10. A Grade II listed veranda is situated to the front of part of the appeal terrace. The appeal site is also situated within the Lord Street Conservation Area. I

¹ Coronavirus and its impact on UK hospitality: January 2020 to June 2021 (Office for National Statistics)

have had special regard to the statutory duty where it is necessary to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and the building. Since the appeal scheme would not involve any operational development or material changes of use, I do not find harm in regard to these matters.

Conclusion

11. I have found that the development would conflict with the development plan read as a whole. It has not been demonstrated that there are any material considerations of sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, the appeal is dismissed.

F Rafiq

INSPECTOR



Appeal Decision

Site visit made on 30 May 2022 by Hilary Senior BA (Hons) MCD MRTPI

Decision by J Hunter BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2022

Appeal Ref: APP/M4320/D/22/3294584

Poplar Lodge, 15B Green Lane, Formby, L37 7DJ

- 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 & Mrs Martin against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2021/01434, dated 28 May 2021, was refused by notice dated 28 January 2022.
 - The development proposed is side extension and alterations to gain more head height in current lean-to roof, with new front porch and alterations to existing roof at rear.
-

Decision

1. The appeal is allowed and planning permission is granted for a two storey extension to the side following demolition of the existing side extension/garage, porch to the front and first floor extension to the rear of the dwellinghouse in addition to alterations to the roof to form a double-pitch at 15B Green Lane, Formby, L37 7DJ in accordance with the terms of the application, Ref DC/2021/01434, dated 28 May 2021, 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: P_01 Location plan, P_03 Proposed ground floor plan, P_05 Proposed first floor plan, P_07 Proposed front elevation, P_09 Proposed rear elevation, P_11 Proposed side elevation 1, P_13 Proposed side elevation 2.
 - 3) The materials to be used in the construction of external surfaces of the development hereby permitted shall match those used in the existing building.

Appeal Procedure

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

Preliminary Matters

3. The description of development in the formal decision is taken from the Decision Notice rather than the planning application form, as this provides a more precise description of the development.

4. The reason for refusal on the Councils decision notice refers to Policy HC3 of the Sefton Council – A Local plan for Sefton (2017). The Council have confirmed that this is an incorrect policy reference and that Policy HC4- House Extensions, Houses in Multiple Occupation and Flats is the correct policy. I have been supplied with Policy HC4 and have determined the appeal with reference to it.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupiers of No 15a Green Lane with particular regard to outlook.

Reasons for the Recommendation

6. The host dwelling is a previously extended two storey detached dwelling set back from the road. The property is set in an established residential area where there are a variety of house types, designs and landscaping which collectively, afford the area with an open and verdant character. The host dwelling is a relatively modern building, the proposed extensions would allow a remodelling of the internal layout.
7. Sefton Council House Extensions Supplementary Planning Document (2018) (SPD) 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 except in exceptional circumstances. In this case, the existing extension does not meet the guidance being closer to the neighbouring property than 12 metres.
8. The side elevation of the neighbouring property (No 15a) faces the side of the host dwelling and is separated from it by tall close boarded fencing, a path and landscaping. No 15a Green Lane is a single storey listed building with low level window openings serving both a bedroom and a kitchen in the side elevation. Due to the low level windows, the current outlook from these windows limited by the fence and the roof of the existing extension. Whilst the proposed extension would result in a higher rendered wall being visible from the neighbouring property the outlook would not be significantly additionally harmed by the proposal.
9. I conclude that the proposal would not result in a significant reduction in the living conditions of the occupiers of No 15a Green Lane with particular regard to outlook. It would therefore comply with Policy HC4 of the Sefton Council – A Local plan for Sefton (2017) which amongst other things, seeks to ensure that development should not have unacceptable impacts on the living conditions of neighbouring properties, in particular that there should be no loss of outlook on main windows of habitable rooms.

Other Matters

10. The host property lies within the Green Lane Conservation Area and the neighbouring property, May Cottage No 15a Green Lane is a Listed Building. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area and preserving the setting of the listed building.

11. The Council, in determining the planning application concluded that the extensions would preserve or enhance the character or appearance of a conservation area and preserve the setting of the listed building, due to the design of the proposal and that there would be no significant alterations to the footprint of the building. From the evidence before me and my observations on site there is no reason to disagree.

Conditions

12. I have had regard to the conditions suggested by the Council in line with the advice in the National Planning Policy Framework and the Planning Practice Guidance. In addition to the standard timeframe condition, I consider that a condition requiring the development to be constructed in accordance with the approved plans is necessary for the avoidance of doubt. A condition regarding external materials is also necessary to ensure there would be no harm to the character or appearance of the appeal property or the surrounding area.

Conclusion and Recommendation

13. The proposal does not conflict with the development plan as a whole and there are no other considerations, including the provisions of the National Planning Policy Framework, which outweigh this finding.
14. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

Hilary Senior

APPEAL PLANNING OFFICER

Inspector's Decision

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

J Hunter

INSPECTOR