

Report to: PLANNING COMMITTEE **Date of Meeting:** 14th December 2022

Subject: [DC/2022/01189 – Land to the rear of 19 College Avenue, Formby, Liverpool, L37 3JL](#)

Proposal: Erection of a detached two storey (plus attic floor) dwellinghouse

Applicant: Mr. Ian Morris **Agent:** Mr. David Bennet, Keith David Partnership Architects

Ward: Harington **Type:** Full Application

Reason for Committee Determination: Petition objecting to the application endorsed by Councillor Irving (who also called-in the application)

Summary

This application seeks approval for the erection of a detached dwelling on a plot that has been severed from the rear of Number 19 College Avenue within a Primarily Residential Area of Formby. It is considered that the principle of development and the impact on the character of the area is acceptable, that there will be no unacceptable impacts on the living conditions of neighbouring properties or on future occupiers of the proposal and that sufficient access can be provided. The proposal is therefore recommended for approval with conditions.

Recommendation: Approval with Conditions

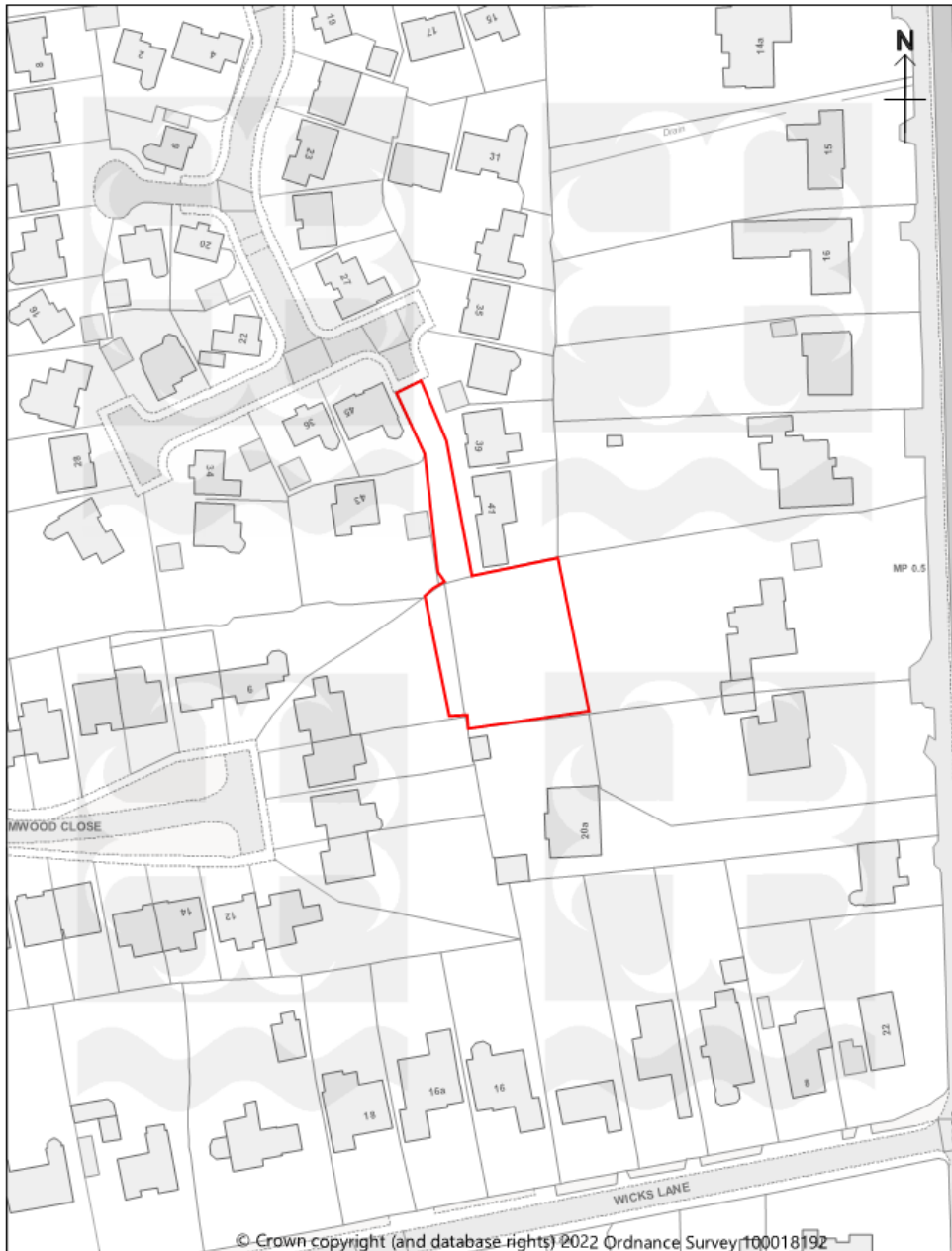
Case Officer Neil Mackie
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Application documents and plans are available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R9Z5TYNWHRY00>

Site Location Plan



Sefton Council



Reference: DC/2022/01189
Date: 05/12/2022
Scale: 1:1250
Created by: MB

DC/2022/01189

Land to the rear of 19 College Avenue

Formby L37 3JL

The Site

The site comprises a plot of land that has been severed from the rear of Number 19 College Avenue within a Primarily Residential Area of Formby. To the north and west of the site are two-storey residential properties on Holmwood Close and The Evergreens, with a two-storey property to the south (Number 20a College Avenue). Bordering the site to the north is a sycamore protected by Tree Preservation Order 109.

History

N/1998/0222 - Erection of 1 detached two-storey dwellinghouse to form part of the former Holmwood School residential development site at Barkfield Lane. Approved 4th June 1998.

Consultations

Highways Manager - No objection as there are no adverse highway safety implications. Note that the access to The Evergreens is over a private access road and that it has not been indicated that the applicant has right of access over this or that consent of the owner(s) has been granted for its use.

Environmental Health Manager - No objection subject to conditions securing a Construction Environmental Management Plan (due to the proximity of neighbouring properties) and seeking details for any piling or ground-compaction.

Flooding & Drainage Manager - No objection.

Network Rail - No objection.

Formby Parish Council - No comments made.

Little Altcar Parish Council - No comments made.

Merseyside Fire & Rescue Service - Reference made for need to comply with Approved Document B5 of the Building Regulations and s55 of the County of Merseyside Act 1980.

Neighbour Representations

A petition objecting to the proposal with 25 signatories has been endorsed by Councillor Irving. The petition objects to the application for the following reasons:

- The proposal is inconsistent with the Local Plan in respect of backland development and infringes on the Neighbourhood Plan
- The density of the development will have a very dominating aspect on the surrounding properties, contrary to policy
- The proposal will be a three-storey house contrary to policy

- The dwelling will cause significant detriment to the landscape and change the visual character and street pattern of the area, as it would not represent the character and distinctiveness of its surroundings nor add to the overall quality of the area
- The proposal will have a severe impact on the privacy of neighbouring homes, particularly to a side window serving a habitable room window at No 41 The Evergreens
- The building size is excessive for the plot
- The proposed access is shown to be wider on the plans than it is in reality, running across third party properties
- Construction traffic will lead to problems due to the site location and access
- The proposal will result in a loss of trees, and interfere with those to neighbouring properties
- Query the findings of the preliminary ecological appraisal as based on anecdotal evidence the site has been well used by red squirrel, hedgehogs and birds for over 25 years.

Individual objections have been received from Numbers 37, 39, 41 and 45 The Evergreens and Numbers 19 and 20A College Avenue. Issues raised by objectors relate to:

- The proposal by virtue of its size and proximity to boundaries, along with associated traffic and vehicle related noise will have a severe impact on the privacy and enjoyment of neighbouring homes
- The building size is excessive for the plot, being in excess of 30% of the plot size
- The building will be too large in relation to existing properties on The Evergreens, the road from which the proposal will gain its access
- The proposal is for a three-storey dwelling and not two-storey as described
- The proposal will overlook neighbouring rear gardens (9.3m distance to garden of No 41 The Evergreens) and no more than 12m from a habitable room window to the side of No 41
- The permissive access driveway has been incorrectly interpreted within the application documents and is narrower than shown
- There is insufficient space for visitor parking within the site
- There will be insufficient access for construction traffic without trespass or disruption to Nos 37-45 The Evergreens
- Concerns regarding access by emergency vehicles, particularly fire appliances
- There is no access to the shared sewers and stated that previous agreements may have lapsed
- Concerns about impacts on trees
- The use of piling to protect trees would not be appropriate in this residential location.
- Concerns about impact on ecology
- Concerns regarding future use of building as flats

Queries were also made regarding the given address of the site, but the absence of any separate address for this plot of land within the Local Land Property Gazetteer meant that 'Land to the rear of 19 College Avenue' was as accurate as could be.

Councillor Irving has called this application in to be determined by Planning Committee.

Councillor Irving also submitted objections to the proposal on the basis that even with amendments the proposal represents a three-storey dwelling, which is contrary to Neighbourhood Plan policy H5. He also considers that the sheer size of the property, the density, scale and massing would result in a very dominant feature in this area of two-storey dwellings contrary to Neighbourhood Plan policy H1 and Local Plan policy EQ2. He is also concerned as to how drainage is to be dealt with and queries the true extent of the permissive access to the site from The Evergreens. Cllr Irving also queried the absence of tree and ecological surveys, which were then provided by the applicant.

Policy Context

The application site lies within an area designated as a Primarily Residential Area in the Sefton Local Plan (LP), adopted by the Council in April 2017. The National Planning Policy Framework, the New Housing (2018) Supplementary Planning Document and Sustainable Travel and Development (2018) Supplementary Planning Document are also material.

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

Assessment of the Proposal

This application seeks approval for the erection of a detached two-storey dwelling, with accommodation in the roofspace, and associated ground-works and landscaping.

The main issues to consider in respect of this application are the principle of development, the impact on the character of the area, the impact on the living conditions of neighbouring properties, the living conditions to be provided to future occupiers and the access to the property.

Principle of Development

As this site lies within a designated Primarily Residential Area, Local Plan policy HC3 'Residential Development and Primarily Residential Areas' is of direct relevance. This allows for new residential development where it is consistent with other Local Plan policies.

The Formby & Little Altcar Neighbourhood Plan, in Policy GP1 'Spatial Strategy', promotes the infilling of the settlement boundary (which this proposal falls within) for future housing, economic and community related development. Policy H2 'New Housing' requires new housing to be well connected within the site and within the wider town.

Subject to the assessment of the other matters that follow, the principle of development can be accepted.

Character of the Area

Local Plan policy EQ2 'Design' only permits development where it responds positively to the character, local distinctiveness and form of its surrounding. This approach is also taken within Neighbourhood Plan policy ESD2 'High Quality Design'.

Backland development is commonplace to the immediate area, as seen to the neighbouring Number 20a College Avenue, and as such the provision of a further dwelling here would be appropriate to the overall character of the area. This was a view also taken in granting the 1998 approval for this same site.

The general appearance of the proposal (in regard to the roof pitches, the fenestration and variation to elevations) and the finishing materials are acceptable and draw from those seen in the immediate area.

The scale of the dwelling has been reduced since the original submission so it better responds to the height of neighbouring properties and to respond to the requirements of Policy H5 of the Neighbourhood Plan (presumption against development of more than 2.5 storeys unless it can be demonstrated that such development is appropriate).

Objectors and Councillor Irving contend that the as-amended scheme remains a three-storey dwelling but based on the elevations and the position of windows, limited to two-floors with rooflights to the roof. This is not agreed. The proposal presents as a two-storey dwelling and as such does not fall foul of Neighbourhood Plan policy H5, which does not specify a maximum height for a dwelling merely that there will be a presumption against anything greater than 2.5 storeys.

Objectors reference the dwelling being too large for the plot, with the built footprint being too great. This is not agreed with. It is considered that the proposal represents a largely standard form of development as seen to this residential area, with a deeper rear garden than front and separation to the side elevations. Other 'as built' or extended properties in the immediate area also run close to shared side boundaries and this forms part of the prevailing character of the area.

Further, the application site (excluding the access) occupies an area of 0.1ha and so would represent a density of 10 dwellings per hectare. While this is below the density target within the Council's guidance as well as that within policy H1 'Density' of the Neighbourhood Plan. While below the recommended target of 25-30 dwellings per hectare within the Neighbourhood Plan it is considered that this density reflects the prevailing character and is acceptable.

In respect of the garden size, this is commensurate with that seen to neighbouring properties and within the area.

On this matter the proposal is considered to be compliant with the aims and objectives of the Local and Neighbourhood Plans.

Living Conditions

Neighbouring Properties

As scaled from the submitted plans there will be sufficient interface distances from habitable room windows, particularly upper-floor windows, to the rear gardens and habitable room windows of neighbours on The Evergreens to comply with the Council's guidance, save for the rear garden to Number 41.

The submitted proposed site plan shows a distance of 9.3m from the first-floor front elevation of the proposed dwelling to the side boundary with the garden of Number 41. The Council's guidance recommends a minimum distance of 10.5m between habitable room windows and boundaries with gardens, but as held by the Planning Inspectorate and others on decisions made in the borough this is guidance and can be departed from where justified. Given the overall width of the rear garden to Number 41 it is not agreed that a shortfall here would give rise to significant harm in respect of overlooking with a subsequent unacceptable impact on the living conditions or useability of the garden as a whole.

The occupier of Number 41 also highlights the impacts of the proposal on a window to the side elevation of the ground-floor of their dwelling, which is stated to be used as a study (and shown as such within planning permission reference N/2001/0113). While the distance between this window and the nearest window to the proposal will be around 19m (less than the recommended guidance of 21m) it is considered that this will not result in unacceptable impacts. The addition of a window to a side elevation with views towards land outside of the control of the applicant is their choice and as such should not sterilise or act as a bar to development coming forward. Further, the remainder of the dwelling is unaffected by any direct overlooking and as such it cannot be said that there will be unacceptable impacts to the living conditions of the dwelling as a whole.

Representations received from Number 20a College Avenue, the neighbouring backland dwelling to the south of the application site, raise concerns about overlooking of habitable room windows as well as overlooking the rear garden. As taken from Ordnance Survey mapping the north-facing elevation of No 20a is at least 15m from the shared boundary with the proposal, and then the first-floor windows and juliet balconies to the proposal are 14m from this boundary, comfortably exceeding the 21m minimum as recommend within the guidance. The ground-floor windows of the single-storey elements to the rear of the proposal are closer to the boundary, 10.1m, but the total distance will still exceed the 21m guidance.

In respect of the distance of windows to the rear garden of Number 20a, the ground-floor windows will be below the recommended 10.5m within the guidance but being ground-floor they are unlikely to give rise to unacceptable impacts through overlooking and subsequent loss of privacy.

The position of the dwelling from boundaries allied with the orientation and/or depths of neighbouring gardens ensures that the proposal will not contribute to unacceptable impacts through overshadowing gardens or habitable room windows. Further, the siting will ensure that while visible the proposal will not result in an overbearing or overly dominant building that would

have an unacceptable impact on the enjoyment of rear gardens or otherwise lessen the living conditions of neighbouring properties.

Post-construction, the comings and goings from this single dwelling to The Evergreens are unlikely to be so great as to result in unacceptable impacts through noise and/or general disturbance.

In view of the above it is therefore considered that the proposal will not give rise to unacceptable impacts to the living conditions of current or future occupiers of neighbouring properties

Future Occupiers

The garden size comfortably exceeds the minimum required within the Council's guidance and all the habitable rooms to the ground and first-floors will have good outlook. The two bedrooms within the roofspace will only be served by rooflights but this will be apparent to any future occupier. Given the floorspace of the proposal it is unlikely that this shortfall would result in unacceptable living conditions for future occupiers and furthermore if this was to be an issue for future occupiers then the building is capable of being adapted to meet future needs (for example subsequent approval would not be required for the use of the first-floor cinema/games room as a bedroom(s) in the future).

Taking a balanced view it is therefore considered that the proposal will provide for acceptable living conditions for future occupiers.

Access

A key point of contention from objectors is that access to this property will be through an existing private driveway serving a number of properties on The Evergreens. No information was originally submitted with the application to demonstrate that there was a right of way or other secured access from the application site across unadopted land to The Evergreens highway.

While objectors make reference to a permissive right of way they highlight that the extent of the red-line application site is much larger than the right of way, as physically shown within the existing private access serving properties, and query whether such an access is suitable (plus querying highway impacts arising from construction activities).

The property having sufficient pedestrian and vehicle access from the highway is a key issue as to whether the proposal as a whole is acceptable or not. If it relied upon the agreement of third parties to secure or otherwise implement, then a condition securing sufficient access prior to occupation would be insufficient (as it would fail to meet the relevant tests) but instead a planning obligation, to be entered into by all parties, would be required.

The agent for the application contends that there is a permissive right of way for the dwelling and that sufficient access can be provided through a condition.

In view of the above it is considered reasonable to secure the details of and provision for access from The Evergreens highway by way of a condition attached to any approval.

Other Matters

Trees

The proposal seeks the removal of all trees present on site. As set out in the submitted Tree Survey Assessment, all but one of those trees are considered to be 'C' class in terms of quality (the other is 'B' class) and as such their removal is justified.

The proposed site plan indicates new tree planting but does not specify their size or species. So as to ensure compliance with the Local Plan such details will be required, which can be secured by a condition attached to approval (as will the implementation of an approved landscaping scheme.)

In respect of the impact on trees adjoining the application site, the assessment provides for marked root protection areas and advises methods of development such as piling and the use of porous surfaces retaining the existing ground levels (e.g. geoweb or similar, with all works done by hand) on areas of hard surfacing. Further, the assessment also recommends crown pruning to three trees (marked as T1, T3 and T9 in the assessment) whose crowns overhang the site.

As such it is considered that subject to adhering to arboricultural standards that the proposal is unlikely to cause harm to off-site trees, whilst the loss of on site trees would be acceptable subject to replacement tree planting.

Ecology

The application is supported by a Preliminary Ecological Appraisal undertaken by Tyrer Ecological Consultants Ltd with surveying carried out on 20th September 2022.

The appraisal considers that the sole building on site, a small timber shed, provides negligible bat roost suitability and that the trees on site are absent of any "extensive rot holes, cracks, woodpecker holes, peeling bark, splits or other crevices typically used by bats" and as such also have negligible bat roost suitability.

No physical evidence of red squirrel activity was found in the site nor was any evidence of bird nesting. Further there were no field signs to indicate the presence of badgers within the site, with the absence of suitable habitat for sett building indicating that their presence is highly unlikely.

The appraisal considers that the site is unsuitable for great crested newts, common toad, common frog and reptiles, and that the site has few features that would likely provide habitat for invertebrates.

The appraisal does consider that the nature of the site may provide some suitability for shelter and hibernation for hedgehogs and so their presence throughout the year is considered to be possible.

In respect of flora no botanical species of conservation were identified within the site.

Although objectors have made anecdotal statements regarding the presence of protected species on the site no evidence has been provided to counter that provided by suitably qualified and experienced ecologists within the Assessment.

The appraisal recommends that the removal of trees, shrubs and vegetation is limited to being outside of the bird nesting season, which can be secured by a condition attached to any approval. Reasonable Avoidance Measures are recommended, to be set out within a working method statement, to reduce the risk of harming small mammals or other “terrestrial fauna”. The method statement can be secured by a condition.

Notwithstanding the absence of evidence of red squirrel use within the site it is considered reasonable to attach a condition to any approval requiring all trees and shrubs to be checked for dreys prior to their removal, with a report confirming this to be submitted to the Council.

Moving beyond matters of protection, a number of options to enhance biodiversity are recommended within Appendix III of the appraisal. As such a condition will be attached to any approval seeking the details of the number and location of bat boxes, bird boxes, bee bricks and hedgehog ‘highways’ to be provided within the site, along with a timetable for their implementation.

Drainage

As the proposal will result in a net increase in the impermeable surface of the site it is considered reasonable and necessary to secure the submission, approval and subsequent implementation of a full sustainable drainage scheme by a condition. This is necessary to ensure that flood risk isn’t increased on this site or, importantly, to neighbouring sites, which is a requirement within Neighbourhood Plan policy F1 and Local Plan policy EQ8. Given the current nature of the site any drainage scheme must achieve a greenfield runoff rate.

Subject to the condition being met this aspect of the proposal is considered acceptable.

Conclusion

In view of the above it is considered that this application complies with the aims and objectives of the Formby & Little Altcar Neighbourhood Plan, the Local Plan and all other material considerations. The proposal is therefore recommended for approval with the conditions that follow.

Recommendation – Approval with Conditions

Time Limit for Commencement

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

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

Approved Plans

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

00 Rev A 'Location Plan'

05 Rev F 'Existing and Proposed Site Plans'

10 Rev F 'Proposed Plans'

15 Rev G 'Proposed Elevations'

Preliminary Ecological Appraisal, October 2022, Tyrer Ecological Consultants Ltd

BS5837 Tree Survey Assessment, ref 220653_22/A1, June 2022, Indigo Surveys Ltd

Reason: For the avoidance of doubt.

Before the Development is Commenced

- 3) No development shall commence, including any works of demolition, until a Highways Construction Management Plan has been submitted to, and approved in writing by, the local planning authority.

This shall include but not be limited to such matters as the number of trips and type of vehicles to be used, the delivery hours, the location and extent of a site compound for parking of vehicles and the location and extent of wheel washing facilities (or other measures to limit the potential spreading mud on the carriageway).

The approved statement shall be adhered to throughout the implementation of this permission.

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

- 4) a) No development shall commence until a detailed scheme showing vehicle access from The Evergreens adopted highway through to the vehicle access gates of the dwelling hereby approved has been submitted to and approved in writing by the Local Planning Authority.
- b) The approved scheme shall then be implemented and completed prior to the first occupation of the dwelling.

Reason: To ensure that the proposal can be safely accessed.

- 5) No development shall commence, including any works of demolition, until a Construction

Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period and shall include details regarding noise, dust and vibration suppression along with details of any piling/ground compaction measures to be used and measures to mitigate impacts arising from such works.

Reason: To safeguard the living conditions of neighbouring occupiers and land users during both the demolition and construction phase of the development.

- 6) Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. In the event of surface water draining to the public surface water sewer, the pass forward flow rate to the public sewer must be restricted to 5 l/s.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason: To ensure satisfactory drainage facilities are provided to serve the site in accordance with the National Planning Policy Framework, policy F1 of the Formby and Little Altcar Neighbourhood Plan and Policy EQ8 of the Sefton Local Plan.

- 7)
 - a) Given the known presence of red squirrel within this area, as a precaution a precommencement check of any trees or shrubs must be undertaken prior to their removal.
 - b) A report confirming the absence of dreys must be submitted to and approved by the Local Planning Authority prior to any shrub or tree removal.

Reason: In the interests of ecology.

- 8) Prior to the commencement of development site specific information must be submitted to and approved by the Local Planning Authority in respect of the measures to be used to protect trees bordering the development site.

The approved measures must then be adhered to throughout construction.

Reason: To ensure trees are protected.

- 9)
 - a) Prior to the commencement of development a working method statement setting out reasonable avoidance measures to reduce the risk of harm to small mammals and terrestrial

fauna (such as hedgehogs) shall be submitted to and approved in writing by the Local Planning Authority.

b) The approved method statement shall then be adhered to at all times until the development is completed.

Reason: In the interests of ecology.

Before the Development is Occupied

10) The dwelling shall not be occupied until a detailed scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include replacement planting for those trees to be lost at least at a 1:1 basis (minimum heavy standard as planted) and any trees must be small seed-bearing species which encourage red squirrels and discourage grey squirrels.

Reason: To ensure sufficient living conditions for future occupiers and to enhance biodiversity.

11) a) The dwelling shall not be occupied until all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out for that particular property.

b) any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure sufficient living conditions for future occupiers and to enhance biodiversity.

12) a) The dwelling hereby approved shall not be occupied until details of bat boxes, bird boxes, bee bricks and hedgehog 'highways' to be installed to the dwelling/within the site (to include number, type and location on an appropriately scaled plan as well as timing of installation) has been submitted to and approved by the Local Planning Authority.

b) The details approved under (a) above must be implemented in accordance with those details prior to the first occupation of that particular dwelling and maintained as such thereafter.

Reason: In the interests of biodiversity.

Ongoing Condition

13) a) No tree felling, scrub clearance, hedgerow removal, vegetation management, ground clearance and/or building works is to take place during the period 1 March to 31 August inclusive.

b) If it is necessary to undertake works during the bird breeding season then all buildings, trees, scrub, hedgerows and vegetation are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present.

c) If present, details of how they will be protected are required to be submitted for approval.

d) If necessary the details approved under (c) above shall be implemented.

Reason: In the interests of ecology.

Informatives

- 1) The applicant is advised that the proposal will require the formal allocation of addresses. Contact the Development and Support team on 0151 934 4195 or E-Mail snn@sefton.gov.uk to apply for a street name/property number.
- 2) There are a variety of piling methods available, some of which cause considerably greater noise and vibration than others. It is common for the prevailing ground conditions to influence the chosen method of piling. Where the prevailing ground conditions would permit more than one piling method, the Council would expect the contractor to choose the method which causes the least amount of noise and vibration, in accordance with the following hierarchy:

Pressed-in methods, e.g. Hydraulic jacking

Auger / bored piling

Diaphragm Walling

Vibratory piling or vibro-replacement

Driven piling or dynamic consolidation

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