

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

Subject: [DC/2022/01805](#)
[Former Z Block Sites Buckley Hill Lane Netherton](#)

Proposal: Removal of condition 20 pursuant to planning permission DC/2021/02293 approved 18/11/2021 - to allow the method in which Sandway Homes are securing the Affordable Housing on site, which will be via Homes England grant funding.

Applicant: Sandway Homes **Agent:** Mrs Ann Dixon
Pegasus Group

Ward: St Oswald Ward **Type:** Removal of condition

Reason for Committee Determination: Discretion of Chief Planning Officer

Summary

This application seeks to remove condition 20 imposed on planning permission DC/2021/02293 for a residential development of 63 homes. Condition 20 requires the submission, approval and implementation of an affordable housing scheme.

The sole issue to consider is the viability of the scheme. The report concludes that the scheme cannot viably deliver the affordable homes and it is recommended that the condition is removed.

Recommendation: Approve with Conditions

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Application documents and plans are available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RI551XNWKB00>

Site Location Plan



Sefton Council



Reference: DC/2022/01805
Date: 05/12/2022
Scale: 1:1250
Created by: MB

DC/2022/01805
Former Z Blocks
Buckley Hill Lane Netherton

The Site

The application site is one of three sites known as the former Z Blocks sites. It is bounded by Northern Perimeter Road to the north, Higher End Park to the east, Acton Rake to the south and Buckley Hill Lane, Maypole Court, Muttons Rake and Tarbrock Court to the west.

Relevant history

DC/2022/01246 Non-material amendment to planning permission DC/2021/02293 granted on 18.11.2021 for minor changes to approved plans including the addition of frosted windows to en-suites and/or bathrooms for house types (HT3BT, HT3BS and HT4BS) and replacement of patio doors to bi-fold sliding doors for house type (HT4BD). Approved 19 July 2022

DC/2021/02293 Variation of Condition 2 pursuant to planning permission DC/2020/01853 approved on 01/07/2021 to allow amendments to drawings. Approved 18 November 2021

DC/2021/01981 Non-material amendment to planning permission DC/2020/01853 approved on 01/07/2021 to amend the description to 63 new dwellings and associated infrastructure. Approved 19 August 2021

DC/2020/01853 Erection of 69 No. dwellings and associated infrastructure. Approved 30 June 2021

Consultations

Local Plans Manager

The Council's retained viability consultant (CP Viability) has reviewed the financial evidence and concluded that the site cannot viably secure the affordable homes and that external funding would be necessary. Therefore, the removal of condition 20 to secure affordable homes through the development of the site (rather than through funding) is justified.

Neighbour Representations

37 neighbouring properties were consulted by letter on 27.09.2022 and a site notice was posted at the site on 28.09.2022.

Two local residents have raised the following objections:

- The development should provide parking spaces for existing residents as parking is a serious problem especially when Buckley Hill playing fields are in use
- Vehemently opposed to this development and horrified to see the layout has changed without residents' consultation

- Noise during building works should be kept to a minimum with working hours restricted

These points are responded to under 'other matters'.

Policy Context

The application site lies within an area allocated for housing in the Sefton Local Plan which was adopted by the Council in April 2017.

Assessment of the Proposal

Background

This application seeks to remove condition 20 of planning permission DC/2021/02293. Application DC/2021/02293 involves a residential development of 63 dwellings considered by the Planning Committee on 17 November 2021 where it was resolved to grant planning permission with conditions.

Condition 20 secures a scheme of affordable housing on the site and states:

20. Prior to the first occupation of any dwelling a scheme for the provision of affordable housing on site shall be submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the requirements of Local Plan policy HC1 parts 3 and 4 (as amended by the application of paragraph 64 of the National Planning Policy Framework). The scheme shall include:

- i) the type and tenure of the affordable housing provision which shall accord with the identified units on the approved Site Layout Plan (Drawing No. 02-001 rev P16);*
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;*
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider;*
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and*
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.*

The development shall not be occupied until the approved scheme has been carried out and it shall thereafter be retained.

Reason: In order to accord with Local Plan policy HC1 in contributing to the supply of affordable housing in Netherton.

The approved layout shows that 13 of the 63 new homes will be affordable units comprising 6 one bed flats, 3 two bed flats and 4 two bed houses. The layout does not change under this latest application.

The application seeks to remove condition 20 which requires the affordable housing as the site is not viable to deliver the affordable homes. The applicant intends to deliver the affordable homes via external funding.

Issues

The sole issue to consider is whether the site is viable to secure any affordable housing. Local Plan policy HC1 'Affordable and Special Needs Housing' states at part 9 that:

Affordable and/or special needs housing will be provided in accordance with this policy unless a robust assessment of a scheme's economic viability confirms that this cannot be achieved.

The applicant has submitted a viability report to demonstrate that the scheme cannot viably deliver any affordable housing. This has been appraised by the Council's retained viability consultant who confirms that with grant funding of £1,050,000 and 11 policy compliant on-site affordable homes, but no Section 106 contributions, the scheme generates a residual land value of £161,974 which is slightly below the agreed benchmark land value of £166,000. Therefore, with the grant funding, the scheme is marginally viable but introducing any Section 106 contributions would result in the scheme being firmly unviable.

Our consultant goes on to advise that if the grant monies were not available, this would adversely affect the scheme's viability and would generate a financial loss of around £500,000 even with 100% market units and no affordable homes. The report concludes that the grant funding is crucial to the scheme's delivery.

The viability reports have confirmed that the site is not viable to provide any affordable housing. The proposal to remove condition 20 therefore complies with part 9 of Local Plan policy HC1.

Other Matters

Outside of the planning process, the applicant has advised that removal of the condition will enable grant funding to be sought for the affordable homes and this would not be available if the condition were retained.

Local residents have raised several concerns but these are not relevant to the current application which only seeks to remove the affordable housing condition. However, issues relating to parking

and construction activities were taken into consideration during assessment of the previous applications for residential development on the site. Parking provision was considered acceptable and conditions were imposed to secure a suitable scheme of piling works, should piling be necessary, and compliance with the approved Construction and Environmental Management Plan. The recommendation below provides for the previously approved layout and these conditions to be retained.

In terms of the resident's question about changes to the layout, this current application does not include any changes to the site layout. The site layout shown on the first residential scheme, on application DC/2020/01853, did initially show the proposed houses at the northern end of Higher End Park with gables facing onto this road. The layout was changed during consideration of the application with amended plans submitted on 2 June 2021 showing plots 47-51 facing onto Higher End Park. Residents were notified on the amended plans on 3 June 2021 with responses due by 17 June 2021. The application was considered at the Planning Committee meeting on 30 June 2021.

The approved site plan for the most recent scheme, on application DC/2021/02293, shows the relevant plots 42-45 facing onto Higher End Park. Residents were sent letters from the Planning Department on 20 October 2021 and the application was considered at the Planning Committee meeting on 17 November 2021. Thus, residents have been kept informed of proposed changes to the planning layout.

Planning Balance and Conclusion

The applicant's viability report has been appraised by the Council's viability consultant and both confirm that the scheme cannot viably deliver any affordable homes. The proposal for the removal of the condition complies with Local Plan policy HC1 part 9 as it has robustly demonstrated that affordable housing cannot be delivered.

The primary matter for consideration is that removal of the condition is acceptable in terms of planning policy. However, members may consider it relevant that the applicant intends to secure grant funding for delivery of the affordable homes which they advise would not be available with the condition intact.

The approved housing layout will still identify 13 affordable units so a further planning application would be required should any changes be proposed.

The recommendation is therefore to issue a new planning permission subject to the conditions set out in the previous approval but without condition 20, the affordable housing condition. It also includes a slight change to condition 2, the approved plans condition, to incorporate the plans approved under the non-material amendment application DC/2022/01246 for minor changes to some of the house types.

Recommendation - Approve with Conditions

Time Limit for Commencement

1) The development hereby permitted shall be commenced before 1 July 2026.

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:

Drawing No. 01-001 rev P01 Site Location Plan and Existing Site Plan

Drawing No. 02-001 rev P16 Proposed Site Layout

Drawing No. 02-002 rev P05 Proposed Site Layout Parking Provision

Drawing No. 02-003 rev P04 Proposed Site Layout Refuse Storage and Collection

Drawing No. 03-001 rev P04 Apartment Block A Block Plans and Elevations

Drawing No. 03-002 rev P04 Apartment Block B Block Plans and Elevations

Drawing No. 03-201 rev P06 HT-2BT House Type Plans and Elevations

Drawing No. 03-301 rev P05 HT-3BS House Type Plans and Elevations

Drawing No. 03-302 rev P05 HT-3BT House Type Plans and Elevations

Drawing No. 03-401 rev P05 HT-4BS House Type Plans and Elevations

Drawing No. 03-402 rev P06 HT-4BD House Type Plans and Elevations

Drawing No. 90-001 rev P07 Proposed Private Amenity Boundary Treatment Plan Bird and Bat Box Locations

Drawing No. P19-2967_002 rev E Detailed Landscape Proposals

Drawing No. GM11200-006 rev A Tree Removal Plan

Construction Traffic Management Plan (Vectos September 2021)

Construction and Environmental Management Plan (Wardell Armstrong March 2021 Report No.007 version 2)

Flood Risk Assessment and Drainage Strategy Revision 02 dated 31 August 2021, the Drainage Strategy Plan Drawing BH-MGZZ-XX-DR-C-0201 Revision P2 and the SuDS Pro-forma by Marston & Grundy dated 26 August 2021

Reason: For the avoidance of doubt.

Before the Development is Commenced

3) No development shall commence, including any demolition, site clearance or ground works, until a full phasing plan has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved phasing plan.

Reason: These details are required prior to the commencement of development in order to ensure that the phases of development are managed properly and in order to safeguard the living conditions of the surrounding occupiers.

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

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

5) No construction work shall take place until a programme of archaeological investigation work has been undertaken in accordance with the approved written scheme of investigation for archaeological work (Pegasus Group, September 2020). The work shall be carried out strictly in accordance with the approved scheme.

Reason: The details are required prior to development or site clearance commencing to ensure that recording takes place at an appropriate period during the development process.

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

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

During Building Works

7) The approved Construction Traffic Management Plan (Vectos September 2021) shall be adhered to in full throughout the construction period.

Reason: To ensure the safety of highway users during both the demolition and construction phase of the development.

8) The approved Construction and Environmental Management Plan (Wardell Armstrong March 2021 Report No.007 version 2) shall be adhered to in full throughout the construction period.

Reason: To safeguard the living conditions of neighbouring/adjacent occupiers and land users, to protect the ecological interest of the area and to minimise waste during both the demolition and construction phase of the development.

9) The development hereby permitted by this planning permission, including all components of the sustainable drainage system, shall be carried out in accordance with the submitted Flood Risk Assessment and Drainage Strategy Revision 02 dated 31 August 2021, the Drainage Strategy Plan Drawing BH-MG-ZZ-XXDR-C-0201 Revision P2 and the SuDS Pro-forma by Marston & Grundy dated 26 August 2021. For the avoidance of doubt, surface water must drain at the restricted rate of 6.9 l/s when draining to the existing surface water sewer on Northern Perimeter Rd and 2.0 l/s to the combined sewer on Great Hey.

The approved scheme shall be fully constructed prior to occupation in accordance with the approved details, phasing and timetable embodied within the approved Sustainable Drainage Strategy, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To ensure satisfactory drainage of the site.

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

Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be included in the verification report required by condition 17.

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

11) No development shall commence above slab level until a detailed scheme of highway works together with a programme for their completion has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- Upgrading and improvement of existing bus stops on Buckley Hill Lane if required via Merseytravel;
- Full reconstruction of footway fronting the site; and
- Provision of new tactile pedestrian crossing at Higher End Park junction of Northern Perimeter Road.

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

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

12) No development shall commence above slab level within a particular phase until a detailed scheme of street lighting on the proposed access roads within that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall comply with the requirements of BS5489 and shall be implemented in full before the development on that phase is brought into use.

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

13) No development shall commence above slab level within a particular phase until details of the materials to be used in the construction of the external surfaces of the dwellings within that phase are submitted to and approved in writing by the local planning authority.

Development shall be carried out in accordance with the approved details.

Reason: These details are required prior to external construction to ensure an acceptable visual appearance to the development.

14) A minimum of 20% of new market properties shall meet Building Regulation Requirement M4(2) for accessible and adaptable dwellings.

Reason: To ensure an appropriate mix of homes on the site.

Before the Development is Occupied

15) Prior to the first occupation of dwellings within a particular phase a detailed scheme of external lighting designed to minimise impacts on bat habitat shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the development within that phase being first brought into use.

Reason: To safeguard conservation of species/habitats.

16) Prior to the first occupation of dwellings within a particular phase details of bird boxes to include number, type and location on an appropriately scaled plan as well as timing of installation, shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with those details.

Reason: To safeguard conservation of species/habitats.

17) Prior to the first occupation of any dwelling a verification report that demonstrates compliance with the agreed remediation objectives and criteria shall be submitted to and approved in writing by the Local Planning Authority.

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

18) Prior to the first occupation of any dwellings within a particular phase a validation report demonstrating that the drainage scheme has been carried out in accordance with the approved Flood Risk Assessment and Surface water Drainage Strategy Revision 02 by Marston & Grundy LLP, Consulting Engineers, dated 31 August 2021 for that phase shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be retained as such thereafter.

Reason: To ensure adequate provision is made for the management of surface water and sewage disposal.

19) Prior to the first occupation of plots 01, 02, 03, 06, 07, 08, 11, 12, 13, 14, 16, 17, 20, 21, 24, 25, 27, 28, 29, 30, 31, 34, 35, 36, 37, 38, 39, 40, 41, 43 and 44 the gable elevation windows to each of these plots shall be fitted with obscured glazing, and any part of the window[s] that is less than 1.7m above the floor of the room in which it is installed shall be non-opening.

The windows shall be permanently retained in that condition thereafter.

Reason: To ensure that the privacy of neighbouring occupiers/land users is retained at all times.

20) The acoustic glazing and ventilation units must meet as a minimum the performance standard shown in Appendix E: Glazing and Ventilation Sound Reduction Performance Data and the locations identified in section 6.3 and Drawing Nos. GM11200-007, 008 and 009 of Wardell Armstrong (September 2021) Noise Assessment Report. Job Number: GM11200. Report Number: 0003. Version: V4.1 Status: Final.

The approved glazing and ventilation units must be installed before the dwellings become occupied and retained thereafter.

Reason: To safeguard the living conditions of occupiers of the site.

21) Prior to the first occupation of any dwellings within a particular phase, a plan indicating the positions, height, design, materials and type of boundary treatment to be erected, including an acoustic barrier with a minimum height of 1.8 metres to be provided to all garden areas, shall be submitted to and approved by the local planning authority. The boundary treatment shall be completed as approved before the dwellings become occupied and retained thereafter.

Reason: To ensure an acceptable visual appearance to the development, to protect the living conditions of future occupiers of the site and to ensure that the privacy of neighbouring occupiers/land users is retained at all times.

22) No dwelling shall be occupied until the electric vehicle charging point(s) for that part of the development have been installed and are operational in accordance with the approved details shown on the Proposed Site Layout Drawing No. 02-002 rev P05. The approved infrastructure shall be permanently retained thereafter.

Reason: To facilitate the use of electric vehicles and to reduce air pollution and carbon emissions.

23) Prior to the first occupation of any dwellings within a particular phase, details of full fibre broadband connections to all proposed dwellings within that phase shall be 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.

Reason: To ensure adequate broadband infrastructure for new dwellings and to facilitate economic growth.

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

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

25) a) A scheme of works for the closure and reinstatement of the existing vehicular and/or pedestrian access on to Higher End Park 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 Higher End Park has been permanently closed off and the footway reinstated. These works shall be in accordance with the scheme approved under (a) above.

Reason: In the interests of highway safety.

26) a) A scheme of works for the proposed vehicular and/or pedestrian access 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 a means of vehicular and/or pedestrian access to the site/development has been constructed. These works shall be in accordance with the scheme approved under (a) above.

Reason: In the interests of highway safety.

27) Prior to the first occupation of any dwelling visibility splays of 2 metres by 25 metres at the new junctions shall be provided clear of obstruction to visibility at or above a height of 0.9 metres above the carriageway level of the new development. Once created, these visibility splays shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety.

28) Prior to the first occupation of any dwelling visibility splays of 2.0 metres x 2.0 metres measured down each side of the access and the back edge of the footway have been provided clear of obstruction to visibility at or above a height of 0.9 metres above the footway level of the new development. Once created, these visibility splays shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety.

29) Prior to the first occupation of any dwelling all areas required for vehicle parking, turning and manoeuvring for that dwelling shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and these areas shall be retained thereafter for that specific use.

Reason: In the interests of highway safety.

30) Prior to the first occupation of any apartment facilities for the secure storage of cycles shall be provided in accordance with details shown on the Proposed Site Layout Drawing No. 02-002 rev P05 and they shall be retained in perpetuity thereafter.

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

31) a) Prior to first occupation of any dwelling a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority.

b) The provisions of the Travel Plan approved under (a) above shall be implemented and operated in accordance with the timetable contained therein.

Reason: In the interests of highway safety.

Informatives

1) The applicant is advised that the proposal will require the formal allocation of addresses. Contact the Development and Support team on 0151 934 4195 or E-Mail snn@sefton.gov.uk to apply for a street name/property number.

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

3) The applicant is advised of the requirement for a "stopping up order" to the development site which forms part of the public highway. For further information please email the Highways Development and Design Team at HDD.Enquiries@sefton.gov.uk.

4) The developer is advised that agreements under Section 38 for internal works and Section 278 of the Highways Act 1980 will be required to ensure the implementation of the off-site highway improvements, and the requirement for a Traffic Regulation Order, and to contact the Highways Development and Design Team hdd.enquiries@sefton.gov.uk in this regard.

5) Bats may be present in your building. Bats are protected species. If you discover bats you must cease work immediately.

6) Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until condition 6 above has been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing, until condition 17 has been complied with in relation to that contamination.

7) The applicant is advised to contact SP Energy Networks in connection with the electricity network at <https://www.spenergynetworks.co.uk/pages/diversion.aspx> before works start on site.