

Appeals Received and Decisions Made

Email: planning.department@sefton.gov.uk

Contact Officer: Mr Steve Matthews 0345 140 0845

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Appeals received and decisions made between [31 October 2022](#) and [27 November 2022](#)

Appeal Decisions

[53 Halsall Road Birkdale Southport PR8 3DB](#)

Reference: DC/2019/02423 (APP/HH/1921)

High Hedge Complaint

Procedure: Written Representations

Start Date: 07/12/2021

Decision: No Further Action

Decision Date: 15/11/2022

[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: Allowed

Decision Date: 02/11/2022

New Appeals

[50 Elm Road Seaforth Liverpool L21 1BL](#)

Reference: DC/2021/02819 (APP/M4320/W/22/3302947)

Change of Use from dwellinghouse (Class C3) into a House in Multiple Occupation (HMO) (Sui Generis) (7 persons) (Alternative to DC/2021/02343 refused 26/11/21)

Procedure: Written Representations

Start Date: 17/11/2022

Decision:

Decision Date:

[Kilmarnock Kenyons Lane Lydiate Liverpool L31 0BP](#)

Reference: DC/2022/01146 (APP/M4320/D/22/3306995)

Erection of extensions to the front and rear of the dwellinghouse, including raising of the roof to create an additional floor.

Procedure: Written Representations

Start Date: 22/11/2022

Decision:

Decision Date:

[227A Stanley Road Bootle L20 3DY](#)

Reference: DC/2022/00416 (APP/M4320/W/22/3306590)

Conversion of the first, second and third floors from 1 self contained flat to 2 self contained flats (C3).

Procedure: Written Representations

Start Date: 15/11/2022

Decision:

Decision Date:

[14 Rosemary Lane Formby Liverpool L37 3HB](#)

Appeals received and decisions made between [31 October 2022](#) and [27 November 2022](#)

Reference: DC/2021/02085 (APP/M4320/W/22/3304165)

Erection of a detached dwellinghouse within the rear garden of 14 Rosemary Lane, after demolition of garage, with access, landscaping, and all associated works

Procedure: Written Representations

Start Date: 18/11/2022

Decision:

Decision Date:

[49 De Villiers Avenue Crosby Liverpool L23 2TH](#)

Reference: DC/2022/01216 (APP/M4320/D/22/3307009)

Erection of a part single/part two storey extension to the front and side and a single storey extension to the rear of the dwellinghouse.

Procedure: Written Representations

Start Date: 22/11/2022

Decision:

Decision Date:

[2 Stanley Park Litherland Liverpool L21 9JT](#)

Reference: DC/2022/01085 (APP/M4320/W/22/3306975)

Change of use of the property from residential to a mixed use of residential and gym - commercial personal training facility (Reprospective).

Procedure: Written Representations

Start Date: 24/11/2022

Decision:

Decision Date:



Appeal Decision

Site visit made on 9 August 2022

by W Johnson BA (Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/HH/1921

53 Halsall Road, Birkdale, Southport PR8 3DB

- The appeal is made under section 71(1) of the Anti-social Behaviour Act 2003 (the Act).
 - The appeal is made by Mr and Mrs Tinsley, hedge owners, against a Remedial Notice (RN) issued by Sefton Council.
 - The complaint, reference DC/2019/02423 dated 20 December 2019.
 - The RN is dated 5 January 2021.
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Decision

1. No further action taken for the reasons set out below.

Preliminary Matter

2. The Council's representative was unable to attend the accompanied site visit. Nonetheless, I was granted access to both No's 51 and 53 Halsall Road, and I undertook the site visit on an unaccompanied basis in both instances.

Reasons

3. Section 66 of the Act defines a 'high hedge' as one that (a) is formed wholly or predominantly by a line of two or more evergreens; and (b) rises to a height of more than two metres above ground level.
4. The RN was initially issued by the Council in respect of a high hedge comprised of a mix of holly, variegated holly, Laurel and spotted laurel growing in the rear garden of No 53. This was on the basis that it considered the hedge to be affecting the reasonable enjoyment of the complainant's property at No 51. The hedge owner lodged an appeal against the RN on the basis that the RN went too far in its requirements.
5. However, at the site visit, it was clear that the high hedge as described in the RN was no longer present. This was also confirmed by both the hedge owners and the complainant at the site visit, where just a modest number of trees and shrubs are now located. Thus, the hedge can no longer be defined as a high hedge under Section 66 of the Act and therefore falls outside the scope of this legislation.
6. On this basis, I need not consider the effects of the hedge on the reasonable enjoyment of the complainant's property and/or whether the requirements of the RN are appropriate and reasonable. In light of the above, I conclude that no further action can be taken on the appeal.

W Johnson

INSPECTOR



Appeal Decision

Site visit made on 27 September 2022

by A Veevers BA(Hons) PGDip (BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2022

Appeal Ref: APP/M4320/W/22/3297330

9 Cummins Avenue, Formby L37 7AL

- 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 Mark Richardson against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2021/01999, dated 4 August 2021, was refused by notice dated 21 October 2021.
 - The development proposed is a detached house.
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Decision

1. The appeal is allowed and planning permission is granted for a detached house at 9 Cummins Avenue, Formby L37 7AL in accordance with the terms of the application, Ref DC/2021/01999, dated 4 August 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have taken the description of development from the application form. Although different to that on the decision notice, no confirmation that a change was agreed has been provided.
3. At the time of my site visit, I noted that fences and gates had been erected on the boundaries of the appeal site and at 9 Cummins Avenue (No.9). For the avoidance of doubt, this appeal is determined on the basis of the plans as submitted with the planning application.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the area; and,
 - Whether the proposal would provide acceptable living conditions for the occupants of 9 Cummins Avenue (No.9), with particular regard to private amenity space.

Reasons

Character and Appearance

5. The area in which the appeal site sits is located is typically suburban in character, with mainly detached, semi-detached dwellings of traditional appearance located in generously sized plots. Whilst the scale and appearance

of dwellings does vary, there is a general consistency of height, the use of red brick and render as main materials and slate roofs. Vernacular features such as projecting bays, chimneys and feature gables are also common. Boundary treatments in the area are of varying forms and materials. There are views over and between properties from roads surrounding Cummins Avenue of vegetation within and between gardens.

6. Properties along Cummins Avenue form a single sided row of traditional semi-detached properties. An unusual feature is that they front onto a narrow pedestrian pathway which adjoins the rear boundary of Queens Avenue properties. As a result, the frontages of the properties are somewhat obscured from public view. However, the rear elevations, gardens and parking areas of properties along Cummins Avenue back onto Gregson's Avenue and are a visible element of this thoroughfare.
7. Although wider in footprint than No.9, the height, depth and alignment of the proposed dwelling is reflective of properties in the row, particularly the detached dwelling at 1 Cummins Avenue. Proposed front and rear garden depths would imitate those along Cummins Avenue and a gap would be retained between the proposed dwelling and side boundaries of the plot. The design of the proposed dwelling would incorporate the bay features evident on properties along the row and whilst the roof would be hipped, this is not so significantly at odds with other roofs in the wider area, notably, at the adjacent property 10 Argarmeols Road.
8. Any additional unit would increase the density of development upon the site and remove an open parcel of garden land. Nevertheless, whilst the proposal would be clearly visible from properties immediately adjacent, and from Gregson's Avenue, only glimpsed views would be apparent from surrounding streets. The proposal would be seen in the context of a residential area with various building forms and vegetated gaps in between. As a result it would not have an overbearing appearance.
9. A previous application was refused for similar reasons (Ref DC/2020/02593). However, the design of the appeal scheme is significantly different. I have assessed the appeal scheme on its own merits and found that, given the degree of local variation and plot sizes, the proposal would respect the context in which it sits without being starkly at odds with the consistent form of Cummins Avenue or harming the varying appearance of the wider area.
10. Therefore, the proposed development would not harm the character or appearance of the area. Accordingly, I find no conflict with Policy EQ2 of A Local Plan for Sefton 2017 or Policy ESD2 of the Formby and Little Altcar Neighbourhood Development Plan 2012 to 2030 which together, seek to ensure, amongst other things, that development is of a design and layout that responds positively to the character, local distinctiveness and form of its surroundings.

Living Conditions for occupiers of No.9

11. The proposed private amenity space provided for the occupants of No. 9 would include front and rear gardens enclosed by fences and gates. Taken together, the amount of private amenity space would exceed the minimum requirement advocated in the Council's New Housing Supplementary Planning Document March 2016 (SPD).

12. However, No.9 is located at the end of Cummins Avenue, with its frontage served only by a pedestrian path, the use of which is limited to residents of this modest enclave. There is a gate part way along the path which advises the path is private with service access only. As the front garden to No.9 is surrounded by the gardens of neighbouring properties, it is not publicly visible. Indeed its locational character has greater similarity to typical rear garden areas.
13. The front gardens of other properties along Cummins Avenue, contain garden paraphernalia such as trampolines, a shed, tables and chairs. Due to the privacy of the location, front gardens along Cummins Avenue are clearly useable. The proposed front garden to No.9 would be particularly private and useable due to the proposed fence and location at the end of the row. It would still be possible to access the front door of No.9 without having to pass through the private area of the front garden. Similarly, the proposed rear private amenity space would only be accessible by occupants and visitors to the property and therefore also be private and useable, noting that it would also be set back behind the parking area.
14. I conclude that the proposal would provide acceptable living conditions for the occupants of No.9, with particular regard to private amenity space. I therefore find no conflict with the SPD which seeks to ensure, amongst other things, that high quality gardens are provided for dwellings.

Other Matters

15. Subject to the provision and retention of the proposed parking areas to both the appeal site and No.9, the scheme would provide parking at the standard required by the LP and incorporate an access with suitable visibility. Although the pedestrian access to the appeal site would be from Gregson's Avenue rather than Cummins Avenue, I find the proposed vehicular and pedestrian arrangements would provide for safe access and egress to/from the public highway without severe impacts on the road network. This is a view shared by the Council's highway advisor.
16. Concerns have been raised by third parties in respect of the effect of the proposal on the living conditions of occupants of neighbouring properties, with particular regard to privacy, light, outlook and noise. The SPD advises that an interface distance of 21m should be maintained between main room windows. Whilst there would be a slight breach of this distance between the appeal proposal and the rear main windows of 4 Argarmeols Grove (No.4), such relationships are not uncommon in this area. For example, a similar interface distance already exists between No.9 and No.4. The presence of intervening vegetation would also assist in moderating the effect of possible overlooking. Therefore, there would be no significant loss of privacy.
17. I acknowledge local concerns in relation to biodiversity. Subject to securing provisions for landscaping of the site, I am satisfied that existing biodiversity interests on the site could be protected and enhanced. Natural England comment that there would be no significant adverse impacts on statutorily protected nature conservation sites or landscapes.
18. The proposal would be constructed at a density accounting for the site constraints and with regard to the character and appearance of surrounding development.

19. Any effects from the construction period would be short-term and could be mitigated by careful construction management, which could be conditioned.

Conditions

20. I have considered the suggested conditions from the Council and had regard to Paragraph 55 of the Framework and the National Planning Practice Guidance in terms of the use of planning conditions. In addition to the standard condition limiting the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty.
21. A condition requiring details of construction vehicle access during construction is necessary having regard to the narrow nature of Gregson's Avenue in the interests of preserving highway safety on and about the site. A requirement for the construction phase of development to be carried out under the terms of a construction environmental management plan (CEMP) is necessary to protect the living conditions of nearby residents.
22. Conditions requiring details of highway works and also the provisions of parking spaces for the proposed and existing dwelling are necessary to avoid adverse effects on highway safety.
23. A condition requiring fibre broadband to be installed is necessary to ensure appropriate infrastructure is available for future occupiers of the proposed dwelling.
24. I consider a condition relating to surface water drainage is necessary to prevent flooding in the area. A condition requiring the implementation of landscaping works is necessary in the interests of protecting the character and appearance of the locality and to enhance biodiversity.

Conclusion

25. The proposal would accord with the development plan and there are no material considerations that indicate that a contrary decision should be taken. Therefore, for the reasons given, the appeal should be allowed.

A Veevers

INSPECTOR

Schedule of 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:

Location Plan, 1499/1 (Proposed Ground Floor Plan), 1499/2 (Proposed First Floor Plan), 1499/3 (Proposed Cummins Elevation), 1499/4 (Existing and Proposed Gregsons), 1499/5 (Existing & Proposed Left Side Elevation), 1499/6 (Existing & Proposed Right Side Elevation), 1499/7 (Proposed Site Plan), 1499/8 (Amenity Plan), 1499/9 (Application Outlines), 1499/10 (Proposed Section & Details).
- 3) No development shall commence until a Highways Construction Management Plan (HCMP) has been submitted to and approved in writing by the local planning authority. The approved HCMP shall be adhered to throughout the construction period.
- 4) No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include a scheme of piling methodology, which provides justification for the method chosen and details noise and vibration suppression methods proposed. The approved CEMP shall be adhered to throughout the construction period.
- 5) The development hereby permitted shall not be occupied until full fibre broadband has been installed at the premises.
- 6) The development hereby permitted shall not be occupied until space has been laid out in accordance with drawing number 1499/8 for vehicles to be parked and that space shall be retained for the parking of vehicles in perpetuity thereafter.
- 7) The development hereby permitted shall not be occupied until a detailed scheme of highway works together with a programme for their completion has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the vehicular access to the site. No part of the development shall be brought into use until the required highway works have been constructed in accordance with the approved details.
- 8) The dwelling hereby permitted shall not be occupied until surface water drainage works have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from

the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

b) include a timetable for its implementation; and,

c) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 9) Within the first planting/seeding season following completion of the development, all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out; 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.

END