

Appeals Received and Decisions Made

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Appeals received and decisions made between 22 January 2024 and 25 February 2024

Appeal Decisions

Becca's Bites 72 Moor Lane Thornton Liverpool L23 4TW

Reference: DC/2023/00634 (APP/M4320/W/23/3327849)

Removal of condition 4 pursuant to planning permission DC/2018/00148 approved 09/03/2018 to allow an outdoor seating area to the rear of the coffee shop.

Procedure: Written Representations

Start Date: 31/10/2023

Decision: Dismissed

Decision Date: 19/02/2024

72 Moor Lane Thornton L23 4TW

Reference: DC/2023/00633 (APP/M4320/W/23/3327848)

Variation of condition 5 pursuant to planning permission DC/2018/00148 approved 09/03/2018 to allow the coffee shop to be open from 08.00 to 22.00 Monday to Saturday and the outside seating area to be open from 09.00 to 18.00 daily.

Procedure: Written Representations

Start Date: 31/10/2023

Decision: Dismissed

Decision Date: 19/02/2024

Glenthorne 56 The Serpentine South Blundellsands Liverpool L23 6TB

Reference: DC/2023/00811 (APP/M4320/W/23/3328064)

Reinstatement of the dwellinghouse following demolition with alterations and extensions, reuse vehicular access to the Serpentine and construction of a garage block, boundary fencing and gates to the perimeter (Alternative to DC/2022/01008).

Procedure: Written Representations

Start Date: 15/11/2023

Decision: Dismissed

Decision Date: 15/02/2024

10 Chestnut Avenue Crosby L23 2SZ

Reference: DC/2023/01664 (APP/M4320/D/23/3334511)

Replacement roof covering (Retrospective)

Procedure: Householder Appeal

Start Date: 21/12/2023

Decision: Dismissed

Decision Date: 13/02/2024

11 Davenhill Park Aintree L10 8LY

Reference: EN/2023/00532 (APP/M4320/C/23/3332915)

Appeal against without planning permission and within the last four years the erection of a 2 metre-high fence to the side of the dwelling house.

Procedure: Written Representations

Start Date: 16/01/2024

Decision: Withdrawn

Decision Date: 07/02/2024

Flat 3 46 Promenade Southport PR9 0DX

Reference: EN/2023/00344 (APP/M4320/F/23/3332396)

Procedure: Written Representations

Appeals received and decisions made between [22 January 2024](#) and [25 February 2024](#)

Appeal against the installation of UPVC windows at Flat 3, 46 Promenade, Southport, PR9 0DX;

Start Date: 02/11/2023
Decision: Dismissed
Decision Date: 29/01/2024

[3 Lunt Road Sefton Liverpool L29 7WB](#)

Reference: EN/2023/00370 (APP/M4320/C/23/3327614)

Appeal against without planning permission, the erection of a dormer extension with balcony to the rear of the dwellinghouse.

Procedure: Written Representations
Start Date: 11/10/2023
Decision: Dismissed
Decision Date: 29/01/2024

[College Road Crosby Liverpool L23 3AS](#)

Reference: DC/2022/01727 (APP/M4320/W/23/3320488)

Prior notification application for the installation of a 17.5m high streetworks column supporting 6 no. antennas, 2 no. 0.3m dishes and 2 no. equipment cabinets and ancillary equipment

Procedure: Written Representations
Start Date: 27/10/2023
Decision: Allowed
Decision Date: 24/01/2024

New Appeals

[201A Altway Aintree Liverpool L10 6LB](#)

Reference: DC/2023/00540 (APP/M4320/W/23/3328625)

Change of use of ground floor from retail (E) to a bar/cafe with the provision of outdoor seating (Sui Generis)

Procedure: Written Representations
Start Date: 05/02/2024
Decision:
Decision Date:

[21A Ryeground Lane Formby Liverpool L37 7EG](#)

Reference: DC/2023/01175 (APP/M4320/D/23/3333711)

Alterations to the dormer roofs from pitched to flat roof dormers on the front elevation. (Alternative to DC/2022/01593)

Procedure: Householder Appeal
Start Date: 14/02/2024
Decision:
Decision Date:

[52 Edge Lane Crosby L23 9XF](#)

Reference: DC/2023/01520 (APP/M4320/D/24/3337183)

Construction of a vehicular access to a classified road

Procedure: Householder Appeal
Start Date: 15/02/2024
Decision:
Decision Date:

[End Cottage 4 Mount Cottages Prescott Road Melling L31 1AR](#)

Reference: EN/2023/00495 (APP/M4320/C/23/3333707)

Procedure: Written Representations

Appeals received and decisions made between [22 January 2024](#) and [25 February 2024](#)

Appeal against without planning permission, a raised timber deck including an outbuilding has been erected, in the approximate position shown coloured blue on the attached Plan 2.

Start Date: 23/01/2024
Decision:
Decision Date:

66 Elm Road Seaforth L21 1BL

Reference: EN/2023/00628 (APP/M4320/C/23/3335692)

Appeal against without planning permission, the material change of use of the land from use for a house in multiple occupation (HMO) to a Childrens residential home.

Procedure: Written Representations
Start Date: 21/02/2024
Decision:
Decision Date:

12A Carlisle Road Birkdale Southport PR8 4DJ

Reference: DC/2023/00700 (APP/M4320/W/23/3332483)

Change of use from dwellinghouse to children's home, to provide care for up to 3 No. children, with the erection of a single storey and dormer extension to the rear.

Procedure: Written Representations
Start Date: 24/01/2024
Decision:
Decision Date:



Appeal Decisions

Site visit made on 16 January 2024

by **J D Clark BA (Hons) DpTRP MCD DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th February 2024

Appeal A Ref: **APP/M4320/W/23/3327849**

Becca's Bites, 72 Moor Lane, Thornton, Liverpool L23 4TW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs C Williams of Becca's Bites against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2023/00634, dated 12 April 2023, was refused by notice dated 7 June 2023.
 - The application sought planning permission for the change of use of the rear part of the ground floor of the premises to a coffee shop incorporating a single storey extension to the rear without complying with a condition attached to planning permission Ref DC/2018/00148, dated 9 March 2018.
 - The condition in dispute is No 4 which states that: *No external seating shall be provided in connection with the coffee shop unless expressly authorised.*
 - The reason given for the condition is: *To prevent noise and disturbance to nearby residents.*
-

Appeal B Ref: **APP/M4320/W/23/3327848**

Becca's Bites, 72 Moor Lane, Thornton, Liverpool L23 4TW

- 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 & Mrs C Williams of Becca's Bites against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2023/00633, dated 12 April 2023, was refused by notice dated 7 June 2023.
 - The application sought planning permission for the change of use of the rear part of the ground floor of the premises to a coffee shop incorporating a single storey extension to the rear without complying with a condition attached to planning permission Ref DC/2018/00148, dated 9 March 2018.
 - The condition in dispute is No 5 which states that: *The coffee shop must not be open to business outside the hours of 08:00 – 19:00 Monday to Friday, 08:00 – 17:00 Saturday and 10:00 – 14:00 Sunday.*
 - The reason given for the condition is: *To prevent late night noise and disturbance to nearby residents and to protect the character of the area.*
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Decision - Appeal A Ref: APP/M4320/W/23/3327849

1. The appeal is dismissed.

Decision - Appeal B Ref: APP/M4320/W/23/3327848

2. The appeal is dismissed.

Preliminary Matters

3. As set out above there are two appeals on this site. They differ in that Appeal A relates to the provision of an outdoor seating area whilst Appeal B relates to the opening hours of the coffee shop. I have considered each appeal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023 and is a material consideration to this appeal. Having considered the revisions to the Framework, as well as the principles of natural justice, together with the nature of the determining issues in this appeal it is clear to me that there are no material changes in the revised Framework relevant to the substance of this appeal. Therefore, I do not consider it necessary, in this instance, to invite any submissions from the parties on the revised Framework.
5. Under Condition 5 the coffee shop can open during the following times: -
 - 0800 – 1900 – Monday to Friday;
 - 0800 – 1700 – Saturday; and
 - 1000 – 1400 – Sunday.

The appellant proposed altering these times to: -

- 0800 – 2200 – Monday to Saturday; and
 - the outside seating area to be open from 0900 to 1800 daily¹.
6. Condition 4 precludes any outdoor seating area at all. I saw on my site visit that there were tables/benches in the outdoor area and from the submissions with these appeals, the outdoor area is currently used in breach of this condition. The appeal proposal is to remove the condition and allow the outdoor seating area to be used in accordance with the above opening times.

Main Issue

7. The main issue for Appeal A and Appeal B is the effect of the proposals on the living conditions of nearby occupiers with particular regard to noise and disturbance.

Reasons

8. The appeal site comprises a barber's shop and coffee shop on the ground floor with a paved area to the rear laid out with tables/benches. The upper floor is in residential use. No 72 Moor Lane is at the end of a row of commercial properties that wrap around The Crescent, and front both Moor Lane and Edge Lane. Adjacent to No 72 are a row of residential properties to the south-west, with No 70 Moor Lane immediately adjacent to the appeal site. On the opposite side of Moor Lane there is a supermarket and its car park. To the rear of the site, there are the rear gardens of residential properties on Thornfield Road.

¹ The appellant initially sought permission for an outdoor seating area to be open until 2000 daily. During the application process the appellant sought to reduce the permitted hours of use for the outdoor seating area to 1800. Despite stating such a change would not be acceptable, the Council's decision notice for Appeal B refers to opening hours of 0900 – 1800 daily. Given this is not a matter of dispute between the main parties, and no one would be disadvantaged by this change, I have considered the hours for the outdoor seating area to be those listed on the Council's decision notice.

9. The occupiers of surrounding residential properties may experience some noise and disturbance from the general activity associated with the commercial premises in the area especially those close to the Moor Lane and Edge Lane junction and the parking areas outside the commercial properties on The Crescent. By contrast, the rear of the premises is quieter and it is reasonable for residents to expect less noise and disturbance in their rear living areas and gardens.
10. The coffee shop was closed at the time of my site visit but the outside area could accommodate a substantial number of people that could generate a level of activity that would cause disturbance. I note that there are bi-fold doors that lead to the outdoor seating area which, when open, would allow noise from the indoor area to spill out into the area outside. Whilst this could happen regardless of the use of the outdoor area, and I note the Council has no particular concerns about this, the coffee shop could accommodate significantly more people if the outdoor space was used as well. In which case, the level of noise and disturbance would be very likely to increase to unacceptable levels for nearby residents.
11. The appellants state that the use of the outdoor area is dependent on weather conditions. Whilst this may be the case to some degree, it would be easy to provide large umbrellas and heaters positioned around the tables/benches so the harm could arise at any time of the year. In the summer months or during fine weather neighbours would be more likely to have windows open and be utilising their gardens so an argument based on weather permitting carries little weight in favour of outdoor seating.
12. The Council has suggested a Noise Impact Assessment in order to fully assess the noise implications of the use of the outdoor seating area. No such assessment has been carried out and so no evidence has been submitted that the proposal would not be harmful.
13. The appellant has suggested that any noise and disturbance could be managed by imposing a temporary permission for 12 months which, together with a restriction on the use of the outdoor area to no later than 1800, would enable the Council to monitor the situation. Also, a Management Plan is suggested as a means of restricting the number of people using the outdoor space.
14. The number of customers using the outdoor seating area could be included in a Management Plan and as such a plan could be secured by a condition attached to any grant of planning permission were the appeal to be allowed. Similarly, the hours of use of the outdoor area could also be controlled by a suitably worded condition. However, even with such a Management Plan and hours of use, I am satisfied that the close proximity of the various dwellings/gardens and the appeal site means it is very likely there would be unacceptable noise and disturbance. A temporary permission would not therefore, be appropriate in this case.
15. I appreciate that some people may prefer to sit outside especially with regard to ongoing concerns about Covid and an outdoor seating area would be good for the business. However, these matters do not overcome the harm I have identified.
16. Turning to the opening hours, given my conclusion on Appeal A, the part of the proposed amended condition relating to the outdoor area is not applicable. With regard to the coffee shop itself, the proposal would extend the closing time from 1900 until a further three hours later at 2200 Mondays to Fridays and for a further five hours from 1700 until 2200 on Saturdays.

17. Although the coffee shop is in a parade of shops there are residential properties close by, as referred to above, and extending its opening times until 2200 six days a week is likely to cause noise and disturbance from people coming and going at a time when surrounding residential properties could reasonably expect the area to be quieter as other premises in the parade close. Later opening hours would also alter the character of the premises from a daytime coffee shop to a night-time venue which would not be consistent with the overall character of the parade as providing a range of commercial services primarily during the day. The approved opening hours included four hours on Sundays, and no opening hours are now proposed for this day. However, given the already limited hours for Sunday, any benefit arising from this would be small.
18. I appreciate that there may be take-aways in the area that open late but there is currently only one take-away in the commercial block on Edge Lane which may open later into the evening, and a sandwich shop which closes at 1730. Moreover, unlike other commercial businesses in the immediate area, the coffee shop is at the rear of the premises whilst its access is from the front, therefore, activity is likely to be notable at both the rear and the front of the property.
19. Consequently, the proposals would have a harmful effect on the living conditions of nearby occupiers with particular regard to noise and disturbance. This would conflict with Policies HC3 and EQ10 of the Sefton Local Plan² which seek to protect the living conditions of occupiers of neighbouring properties and local amenity, and with the Framework in this regard.

Other Matters

20. The appellant's states that the barber's shop could extend their opening hours without the need for any approval. Also, the barber's shop has been described as an A1 use which following changes to the Use Classes Order, would now fall under Class E. The coffee shop would fall under the same Use Class. This could mean that the barbers could become a coffee shop which would mean that the whole of the unit would become a coffee shop falling within Use Class E. However, whilst I accept that such a situation could become confusing, it is not a matter that overcomes the harm I have identified.
21. I appreciate that there would be no issues relating to overlooking or loss of privacy to neighbours but these are not matters that overcome the main issue I have raised.

Conclusion

22. For the reasons given above, I conclude that conditions 4 and 5 are necessary having regard to the living conditions of nearby occupiers and therefore both Appeal A and Appeal B are dismissed.

J D Clark

INSPECTOR

² Sefton Council – Sefton 2030 – A Local Plan for Sefton, Adopted April 2017.



Appeal Decision

Site visit made on 29 January 2024

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th February 2024

Appeal Ref: APP/M4320/W/23/3328064

Glenthorne House, 56 The Serpentine South, Blundellsands L23 6TB

- 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 and Mrs Terry and Lynda Riley against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2023/00811, dated 17 May 2023, was refused by notice dated 20 July 2023.
 - The development proposed is the reinstatement of a dwellinghouse following demolition with alterations and extension, re-use of the existing vehicular access to The Serpentine South and construction of a garage with erection of boundary fencing and gates to the perimeter.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The original house here has been demolished and the site cleared. The description of the proposed development set out above is taken from the application form. At an early stage in the application process the appellants agreed to a change in the description of the proposed development as requested by the Council. That revised description similarly refers to the "*reinstatement of the dwellinghouse following demolition with alterations and extensions*". The appellants now indicate that these descriptions are not accurate, mainly in that they refer to the demolition, which is agreed already by a previous permission for a replacement house (Ref DC/2022/01009) and is said to not be part of the current proposal. The Council raises no objection to the demolition in any case, so this matter is not crucial to my decision.
3. On a more salient point of clarification, this proposal is for a wholly new house of a completely different design to the previously existing house, so the references to "*alterations and extension*" are misleading. I have considered this appeal on the basis that it is for the construction of a new house and garage plus associated development following on from the complete demolition of the house.
4. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023, during consideration of the appeal. The

main parties have been given an opportunity to comment on these changes and have not raised any new points.

Main Issue

5. The main issue is whether the proposal would preserve or enhance the character or appearance of the Blundellsands Park Conservation Area.

Reasons

6. The Council's Blundellsands Park Conservation Area Appraisal (CAA) advises that the conservation area is a planned housing area developed in the late 19th/early 20th Century with mainly large villas in spacious grounds. With its coastal location and railway connection, it provided wealthy businessmen with opportunities for fashionable seaside residences. Policy NH9 *Heritage Assets of A Local Plan for Sefton (LP)* refers to Blundellsands as one of the key elements contributing to the distinctive identity of Sefton, so that its safeguarding and enhancing is a strategic priority.
7. The CAA confirms that the predominating style here is Victorian Gothic although there are many variations and some houses lean more towards the Arts and Crafts movement or have Italianate features and more classical proportions. Newer, more modern developments, especially some blocks of flats, are said to be negative features that detract from the character of the area.
8. Glenthorne House was identified in the CAA as being a building that contributed to the character of the area. Photographs show that it was a substantial 2 to 3 storey house with elements of Victorian Gothic style. Its site is now cleared, forming a relatively level and open area in the middle of the plot, well below the level of The Serpentine South. The site is fringed by trees and to the rear is a partially closed off section of road (Park Drive) mainly used by pedestrians. It is easily visible from both streets. The site's heritage significance stems mainly from its role as one of the original plots and is prominent corner location. Given the importance of this position, a new house here would have a significant impact on local character and appearance.
9. The proposal is to build a new 2½ to 3½ storey house of a more classical form and style, in contrast to the previously existing house. The new house would have a box-like form, regular rows of tall windows, a low pitched Mansard type roof structure with short chimneys set back behind parapet walls and a columned portico and central pedimented projecting gable at the front, facing The Serpentine South. To the rear, facing Park Drive, the design would include extensive glazing at lower ground floor and upper ground floor levels. A single storey detached garage would be built near to one edge of the site and fencing would be added around the perimeter.
10. The height and bulk of the proposed house would be substantial, in line with the historical villa style development and the spacious plot. The buildings would fit comfortably onto the site without the need to remove any significant trees or detract from the spaciousness of the plot.
11. The Council expresses some concern that the proposed house may not be tall enough for this position. I find that its height is appropriately proportional to its design. This does, however, bring up an area of ambiguity about the proposal.

Although, the area of the site where the house would be built is relatively level, the plans show a split level design fitting onto a steeply sloping site. The only indication of proposed floor levels is a note on the plans saying that the south elevation would "*be of similar level as the existing demolished house*". No information has been provided to clarify that level or the proposed ground levels around the building. Without that information it is difficult to fully assess the actual impact of the building's height, as seen from surrounding streets.

12. The CAA describes some buildings in the area as having a *Suburban Italianate* style, with features such as stuccoed quoins, double bracketed eaves, tri-partite windows and classically inspired columns. The appellants argue that the proposal leans towards this style, while sitting comfortably within the overall Gothic style. Aside from the columns and the quoins, however, I see little reflection of the Italianate style in the proposal. The main example of such design referenced in the conservation area is at St Mary's College, the elevations of which are dominated by tri-partite windows and which has bracketed eaves and more traditional shallow pitched roofs - rather than the single width windows, parapet walls and Mansard style roofs of the appeal proposal. I see little reflection of the Gothic style in the proposal, which appears to be of more straightforward classical architecture. The proposed design would therefore appear to be fairly unique within the conservation area.
13. The wide spacing and the individual designs of the existing villas do allow for some flexibility of approach here. The proposal, however, seems to over-stretch this by seeking to establish an unprecedented architectural approach on a key site.
14. I also agree with the CAA that the quality of materials and detailing of new buildings is important if new buildings are not to become negative factors in the conservation area. I am left unconvinced that the proposed new house would include the quality of detailing required for such a substantial addition. The CAA, for example, laments the introduction of upvc windows with thicker frame sections and in many cases the removal of glazing bars. The appeal proposal is for upvc windows, with glazing bars on some windows and plain glazing on others, including in prominent situations on the eastern and western elevations. Other vague aspects of the proposal such as materials, finishes and levels could potentially be clarified by the use of conditions, but the absence of the clarity appropriate to a conservation area site of heritage importance does add to my concerns.
15. Taking all of this into consideration, I find that the proposal would harm the character and appearance of the conservation area. It conflicts with LP policies NH9, NH10, NH12 and NH15, the CAA and the Framework, which seek to protect the significance of heritage assets and secure high quality design in conservation areas.
16. This harm to the significance of a heritage asset would, in the terms of paragraph 205 of the Framework, be less than substantial. Such harm must, in line with Framework paragraph 208, be weighed against the public benefits of the proposal. In this case, the proposal would make use of this sustainably located site to help boost the supply of housing, in line with local and Framework objectives. In view of this proposal being for a single house, and due to the existence of an alternative permission for a house here, I attach moderate weight to these important but modest public benefits.

17. The Council has drawn my attention to another appeal decision relating to development in the conservation area¹, which was for a much different scheme of domestic extensions. I note that Inspector's conclusions but assess this case on its own merits.

Conclusion

18. As set out in paragraph 205 of the Framework great weight must be attributed to any harm to a heritage asset, even where this harm is less than substantial. This aligns with the duty under Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Taking all matters into account, I find no public benefits which would outweigh the significant harm that would be caused to the character and appearance of the conservation area.

19. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR

¹ APP/M4320/W/22/3307412



Appeal Decision

Site visit made on 29 January 2024

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13.02.2024

Appeal Ref: APP/M4320/D/23/3334511

10 Chestnut Avenue, Crosby, Sefton L23 2SZ

- 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 and Mrs William Sheils against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2023/01664, dated 22 September 2023, was refused by notice dated 14 November 2023.
 - The development proposed is replacement roof covering (retrospective).
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Decision

1. The appeal is dismissed.

Preliminary matter

2. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023, during consideration of the appeal. Having regard to the changes in the Framework and to the comparatively minor scale and nature of this appeal proposal, I consider that further consultation on this matter is not necessary.

Main Issue

3. The main issue is whether the proposal would preserve or enhance the character or appearance of the Moor Park Conservation Area.

Reasons

4. Chestnut Avenue is part of a leafy, late 19th Century/early 20th Century housing estate characterised by large, individually designed houses set back on medium to large sized plots behind trees and hedges. No 10 is a semi-detached house, apparently one of the earliest on the estate – in place at least by 1908. Like many of the houses here, it is of Arts and Crafts architectural form and style, with a projecting gable and an intricate roofscape. Its previous roof covering of small format plain clay tiles, as still exists on the other half of the pair of semis (No 8), has been replaced with flat profile, large format red concrete tiles.
5. The appeal seeks approval for the existing tiles, so that they can be retained. The replacement of roof tiles like this would not normally require express planning approval as it would be permitted development under the terms of

Schedule 2 Part 1 Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015. Those permitted development rights have, however, been restricted in the conservation area by a Direction under Article 4 of that Order.

6. The Council's 2008 Moor Park Conservation Area Appraisal (CAA) advises that roofs play a critical role in the character of the conservation area, particularly in longer streetscape views, visually linking similar building types. I find that the roofscapes and roof coverings of the houses here have substantial significance to the heritage value of the conservation area, helping to unify the varying design of the houses. The CAA records that one of the covenants controlling the design of the original houses required roofing materials to be grey slate or red tiles, which at that time would presumably have meant plain clay tiles. The CAA confirms that plain clay tiles are still the predominant roof covering within the estate.
7. The CAA identifies a change to concrete roof tiles as being detrimental to the character of the buildings and the area as a whole, noting a richness and variety of tone within the clay tile and natural slate finishes. The 2010 Article 4 Direction presumably followed on from the CAA's analysis, to give a degree of control over roof coverings with the conservation area. Although there are some houses in the area with large format concrete tiles, many of these appear to be more modern infill buildings with simpler forms, such as can be seen at 6 Chestnut Avenue nearby. I note that the Council has allowed some concrete tiles in the conservation area, but have no details of those cases and they do not affect the overall character of the area enough to significantly affect my assessment in this case.
8. The new tiles at No 10 are of good quality and a good match in colour. They would become weathered and more variegated over time. They would likely always, however, display a greater degree of uniformity than small clay tiles. Their larger size and thicker edges furthermore give the roof a coarser look which sits uncomfortably with the more finely detailed Arts and Crafts style of the house. Their use on just half of the pair of semis also draws attention to this contrast, detracting from the building as a whole and from its group value in the street scene.
9. I conclude that the proposal harms the character and the appearance of the conservation area. It conflicts with policies NH9 and NH12 of A Local Plan for Sefton and the Framework, which seek to protect the significance of heritage assets and secure high quality design in conservation areas.
10. This harm to the significance of a heritage asset is, in the terms of paragraph 205 of the Framework, less than substantial. Such harm must, in line with Framework paragraph 208, be weighed against the public benefits of the proposal. In this case, the previous tiles were no doubt in poor condition and in need of replacement. I have seen nothing to show, however, that replacement with large concrete tiles was necessary for the long term future of the building.
11. As set out in paragraph 205 of the Framework great weight must be attributed to any harm to a heritage asset, even where this harm is less than substantial. This aligns with the duty under Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Taking all matters into account, I find no public benefits which outweigh the relatively minor but still significant harm caused to the character and appearance of the conservation area.

12. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR



Appeal Decision

Site visit made on 14 January 2024

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 29 January 2024

Appeal Ref: APP/M4320/F/23/3332396

Flat 3, 46 Promenade, Southport PR9 0DX

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr David Riley against a listed building enforcement notice issued by Sefton Metropolitan Borough Council.
 - The enforcement notice was issued on 28 September 2023.
 - The contravention of listed building control alleged in the notice is the installation of UPVC windows.
 - The requirements of the notice are: Remove the unauthorised UPVC windows at Flat 3, 46 Promenade, South PR9 0DX (1 bay window to first floor front elevation and 2 windows on the first floor front elevation to the right of the bay window) and replace them with 1 bay window (traditional fixed casement timber window with structural glazing bars and traditional casement timber windows top hung middle section with structural glazing bars on each side) and 2 traditional casement timber windows top hung middle section with structural glazing bars. This should be the same style as the original windows that were replaced without Listed Building Consent.
 - The period for compliance with the requirements is eighteen (18) months.
 - The appeal is made on the grounds set out in section 39(1) (e) and (i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
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Decision

1. The appeal is dismissed and the listed building enforcement notice is upheld. Listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

The Appeal Site

2. The appeal premises forms part of a three-storey, Grade II listed, mid C19 terrace. The terrace originally comprised four houses which have subsequently been converted to flats. The terrace is listed for its group value, along with Stanley Terrace and Nos 49 & 50 Promenade. Based on the evidence before me, including the list description and observations on my site visit, the significance of the building as a heritage asset is mainly derived from the historic evidence it provides as part of a group of C19 town houses, its composition and proportions, and its architectural detailing, including timber joinery, large canted bay windows, large round-headed doorways with pilaster jambs and plain fanlight, deep cornices and dentilled and bracketed eaves cornices.

3. The appeal site is also located within Promenade Conservation Area (PCA). It occupies a prominent position on the Promenade in a location where there are a number of listed buildings. The general consistency, including layout of the plots, architectural decoration, scale, roofs, building sizes and types of property on Promenade, all contribute to the Victorian character and appearance of this part of the PCA.

Appeal on grounds (e) and (i)

4. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 as amended (the Act) requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural interest which it possesses. Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
5. The appellant argues that listed building consent ought to be granted for the UPVC windows, as the timber windows that were replaced were not the original windows installed in the property. They were thus not historic and were of a different appearance and opened differently from those that would have originally been installed. The contribution that the replaced windows made to the character and the significance of the building is therefore reduced.
6. Furthermore, he contends that the design of the new windows conforms to the appearance of those on the remainder of the front elevation of the terrace. He argues that they preserve the uniformity of the window pattern and therefore sustain the character and appearance of the listed building as seen in public views from Promenade. The windows only differ in respect of their material. UPVC has been used on other properties within the Listed Group and are widespread within the PCA. The appellant extends this argument to support his ground (i), claiming that the works would not restore the character of the building to its former state.
7. Windows are often amongst the most prominent features and an integral part of the design of traditional buildings. In this case, the timber windows in the listed building are not the original ones, have a different design with small-paned glazing with casements. However, their traditional timber construction, including structural glazing bars and casements all contribute to the significance of the building.
8. In contrast, the windows that have been installed are constructed from a non-traditional material. Although the glazing arrangement is the same, their sections are bulkier, smoother and flatter than timber windows. They have a modern and less refined appearance, lacking the fine detailing and depth of timber frames. In addition, the bulk and incongruity of the UPVC frames is heightened where the casements have storm seals and the mullions and transoms have been adhered as opposed to being an integral part of the frame.
9. I appreciate that UPVC windows have been installed in the adjoining terrace, which forms part of the Listed Group, and in Stanley Terrace. Those windows also do not preserve the special architectural or historic interest of those buildings and are not therefore a precedent that should be repeated.
10. For the reasons given above, the UPVC windows fail to preserve the special architectural and historic interest of the building and do not preserve or

enhance the character or appearance of the PCA. In the context of the significance and special interest of the asset as a whole, and in the language of the National Planning Policy Framework (NPPF), the harm would be less than substantial. Because the harm is less than substantial, paragraph 208 of the NPPF says the harm should be weighed against the public benefits of the proposal, including securing its optimum use.

11. There are no public benefits which would outweigh the considerable importance and weight to be given to the harm to the heritage asset. As such, the works do not comply with the heritage aims of the NPPF, or the design and heritage aims of Policies NH9, NH11 and NH12 of, A Local Plan for Sefton, adopted 2017. The appeal on ground (e) therefore fails and listed building consent is refused.
12. The requirement to remove the UPVC windows and replace them with timber windows to match those which previously existed in terms of size, profile, sections, design and appearance does nothing more than take the building back to the condition it was in before the unauthorised works were carried out.
13. I conclude that the requirements would restore the character of the building to its former state and the appeal on ground (i) fails.

Other Matters

14. I recognise the circumstances relating to the appellant's purchase of this property, and it was remiss of your solicitor and estate agents to not explain the responsibilities that come with owning a listed building. However, those matters are not for my consideration in this appeal, and I must have regard to my statutory duties under the Act. I also appreciate the financial implications as a consequence of the unauthorised works and enforcement notice. The Council have recognised those costs and thus a period of 18 months has been given to comply with the notice.
15. I understand that a new Event Centre is to be constructed close to the appeal site, and thus there will be a change to the appearance of the PCA. I do not know the precise details of this scheme, however, the works the subject of this appeal relate to unauthorised works to a listed building, and thus are not comparable to those of a new build construction. I therefore give this consideration little weight.

Conclusion

16. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice.

Elizabeth Pleasant

INSPECTOR



Appeal Decision

Site visit made on 15 January 2024

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th January 2024

Appeal Ref: APP/M4320/C/23/3327614

Land at 3 Lunt Road, Sefton, Liverpool L29 7WB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Steven Proffitt against an enforcement notice issued by Sefton Metropolitan Borough Council.
 - The notice was issued on 2 August 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a dormer extension with balcony to the rear of the dwellinghouse.
 - The requirement of the notice is to: remove the dormer extension and balcony and reinstate the roof to its previous condition.
 - The period for compliance with the requirement is: three (3) months from the date this notice takes effect.
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. It is directed that the enforcement notice is varied by:
 - the deletion of 'three (3) months' and the substitution of 'six (6) months' as the time for compliance.
2. Subject to the variation, the appeal is dismissed, and the enforcement notice is upheld.

Reasons

3. An appeal on ground (g) is that the period specified in the notice falls short of what should reasonably be allowed. The appellant says that the compliance period is not considered long enough to complete all the required works, given that several different trades are needed to undertake the prescribed works. Further, they explain that the appellant would need to commission the trades and get the work carried out. Despite being asked to clarify what period the appellant considers to be reasonable, no response was forthcoming. I have therefore reached a judgement based on the points made and my experience.
4. Although the Council considers three months to be adequate time for the required work to be undertaken, I do not agree. Firstly, the appellant has a right to appeal and to await the outcome of that process before they carry out any of the requirements. Furthermore, the requirement involves removing the dormer extension and balcony and returning the dwelling back to its previous condition. This will involve different trades, and these will need to be coordinated and available. I consider that six months is a more reasonable period, bearing in mind the current time of year while still providing a definitive point in time whereby the breach of planning control is remedied. On this basis, I conclude that the appeal on ground (g) succeeds.

Conclusion

5. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with a variation.

Andrew McGlone

INSPECTOR



Appeal Decision

Site visit made on 13 December 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2024

Appeal Ref: APP/M4320/W/23/3320488

Site in front of Marine Football Club, College Road, Crosby L23 3AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Cornerstone Telecommunications against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2022/01727, dated 30 August 2022, was refused by notice dated 20 October 2022.
 - The development proposed is the installation of a 17.5m high streetworks column supporting 6 no. antennas, 2 no. 0.3m dishes and ancillary equipment. The installation of 2 no. equipment cabinets and development ancillary thereto.
-

Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 17.5m high street works column supporting 6 no. antennas, 2 no. 0.3m dishes and ancillary equipment. The installation of 2 no. equipment cabinets and development ancillary thereto at Site in front of Marine Football Club, College Road, Crosby L23 3AS, in accordance with the terms of the application, ref DC/2022/01727, dated 30 August 2022, and the plans submitted with it, including: Drawing No. 100 Rev D (site location maps), Drawing No. 201 Rev D (proposed site plan), and Drawing No. 301 Rev D (proposed site elevation).

Preliminary Matters

2. 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 GPDO), planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions. In accordance with Part 16 of the GPDO, I have assessed the proposal solely on the basis of its siting and appearance.
3. I have taken the address of the appeal site from the appeal form and the statements of both main parties as it is a more accurate description of the location. I am satisfied no party would be prejudiced by my so doing.
4. The appellant has provided additional information at the appeal stage which identifies and discounts alternative sites that have been considered for the proposed development. The Council and interested parties have had the opportunity to comment on this information as part of the appeal process. The

information does not alter the form or location of the proposed telecommunications installation. I am satisfied that no prejudice would occur to any party as a result of my consideration of the information and have determined the appeal on that basis.

5. It has been suggested that the proposed cabinets do not require prior approval. Nevertheless, they are shown on the submitted plans and included in the description of development. Therefore, I have considered them as part of the appeal scheme.
6. The Council has referred to development plan policies in its decision notice. However, the principle of the development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A contain no requirement to have regard to the development plan, but policies may be material considerations where relevant to matters of siting and appearance. Policies EQ2 and HC3 of the Local Plan for Sefton, 2017 (LP) are material considerations as these policies are concerned with, amongst other things, general design criteria for new development and the character of residential areas.
7. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. The Framework includes sections on supporting high quality communications and achieving well designed places. Therefore, it is also a material consideration. As the Framework's policy content insofar as it relates to the main issues has not been significantly changed, albeit that the numbering of paragraphs has changed, there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

8. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm would occur, whether this would be outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Character and appearance

9. The appeal site is an area of pavement fronting Marine Football Club on College Road. The proposed 17.5m column would be located at the back edge of the pavement, adjacent to a tall close boarded timber fence which displays the name of the football ground and up-coming fixtures. The proposed cabinets would be located adjacent to the column at the back edge of the pavement in front of a lower, short section of timber fence. Behind the fence is '1894 bar and bistro' which includes an outdoor seating area and a pay and display car park with the football stand and other associated buildings beyond.
10. In the immediate vicinity of the appeal site, College Road is fronted on each side by retail and other commercial properties. There are residential properties behind and above some of the commercial properties fronting College Road and the area to the south of the appeal site and on three sides of the football ground is predominantly residential. The area is therefore of mixed urban character and appearance.

11. The proposed development would occupy a prominent location on the pavement, particularly having regard to the outdoor seating area, planted boxes and car park, which provide a visual break in the built-up area. Although the appellant's photomontages demonstrate that the functional appearance of the proposed column would be seen within a similar setting as the four floodlights which surround the football ground, and would not be significantly taller, the floodlights are set back behind the car park and do not have the same intimate relationship with College Road where the presence of the proposal would be noticeably amplified.
12. Notwithstanding the proximity to the spectator stand and floodlights, due to its height and bulky headframe design, the installation would be a prominent structure when viewed from the outdoor seating area and the entrance to the football ground. It would also be clearly visible in views along College Road and Warwick Avenue in the skyline, above the backdrop of the spectator stand, boundary fence and the surrounding one and two storey buildings. Properties bordering the football ground would also have views of the upper part of the proposed column and headframe.
13. The height of the proposed installation would be significantly taller than the surrounding roadside street furniture and the column width would be bulky in comparison. Street trees along College Road would provide some screening to the proposal in longer views along the road. Nevertheless, there are no trees in the immediate vicinity of the appeal site and any screening afforded by trees would be reduced during the winter months when the trees would not be in full leaf. In any event, from observations at my site visit, the column would be significantly taller than these trees. In this context, whilst the height and bulk of the column and headframe would be less conspicuous in long range views, it would be a discordant and conspicuous feature along this part of College Road.
14. The Council raises no concerns with the equipment cabinets and other proposed ancillary works. These would be low key and in keeping with the urban roadside location where such features are common. The site is not located within an area subject to any heritage designation.
15. For the reasons set out, I conclude that the siting and appearance of the proposed installation would result in moderate harm to the character and appearance of the area. The proposal would conflict with, insofar as they are material considerations, paragraph 135 of the Framework and Policies EQ2 and HC3 of the LP which all seek, amongst other things, that development responds positively to the character, local distinctiveness and form of its surroundings and does not harm the character or appearance of the area.

Alternative sites

16. The Framework sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and in this respect, there is a need to support the expansion of electronic communications networks, including next generation mobile technology. The proposal would provide 5G coverage and a number of potential benefits have been set out by the appellant relating to improved connectivity, such as supporting the economy and digital inclusion.
17. However, as I have found that the proposed siting would cause harm to the character and appearance of the area, it is necessary to consider whether

other, less harmful options may be available. Indeed, Paragraph 121 of the revised Framework advises that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this should include evidence that the applicant has explored the possibility of erecting antennas on existing buildings, masts or other structures.

18. On the evidence before me, the appellant has appropriately followed the sequential approach, advocated by the Framework, in identifying site options. The appellant identified that their existing mobile telecommunications site at the corner of College Road and Brooke Road East is shared with Vodafone. The appellant asserts that it would not be possible to provide an upgraded installation at this site which would satisfy both operators requirements to provide a 5G service. As such, the existing street work monopole would be retained by Vodafone and the appellant's equipment must be located somewhere within the search area to provide consistency in coverage. Even if mast sharing was an acceptable solution, there is no evidence to suggest that it would negate further telecommunications equipment from coming forward within the local area.
19. It is noted that, as with all 5G cells, the relevant search area is very constrained and that in this case, the designated search area covers what is largely a densely populated residential area. There are further limitations in siting new infrastructure too close to the existing installation on Brooke Road East due to interference.
20. I also recognise that the dense urban nature of the area provides limited alternative options and rooftop installations may not be possible due to the traditional design and height of buildings in the area. This has consequentially led to several discounted options. While the Council initially questioned the lack of evidence provided in the application regarding alternative sites, the Council now confirm in their statement that the information provided by the appellant in their appeal submission may help to overcome their concerns relating to the robustness of the search for alternative sites. The Council has not questioned the constrained size of the search area or the list of alternative sites that were considered as part of the appeal.
21. Of the 15 alternative sites put forward in the appellant's site selection process, 4 would be marginally outside the search area. Two mast sharing options would result in a taller and bulkier installation close to residential properties. Rooftop installations would be prominent or unsuitable due to the relatively low height or pitched designs of buildings in the area. Many ground based options would be close to residential properties or on narrow pavements. A potential option within the forecourt of the Esso garage on College Road would restrict vehicle movement at the site.
22. My attention has been drawn by an interested party to potential alternative sites close to Alexandra Park. Surrounding roads are located outside the search area. I saw at my site visit that the pavements on each side of Carnegie Avenue are narrow and the canopy of the Crosby Park, Nissan business overhangs part of the pavement. Furthermore, the dense canopy of trees on the periphery of the park may restrict an installation on the adjoining pavements. In any event, this location would be equally harmful to the character and appearance of the surrounding area.

23. Although the reasons for discounting alternative sites are expressed in broad terms, having reviewed the submitted evidence and seen the alternative locations, I am satisfied that there are no suitable alternative sites to provide the additional network coverage and capacity requirements in this area. I also note the appellant has reduced the height of the proposed column from a previous proposal in the same location.¹
24. Accordingly, based on the available evidence, I consider that the appellant's findings that there would be no other feasible, available, and more suitable location for the development to be both reasonable and justified.

Balance and conclusion

25. The government is committed to supporting the deployment of next-generation mobile infrastructure. In this regard, whilst I recognise the general social and economic benefits, those benefits, as well as alleged adverse climate change and other environmental impacts, have effectively been recognised by the grant of permitted development rights in the GPDO. Hence, they do not carry weight when considering matters of siting and appearance as part of the prior approval process.
26. I do, however, recognise that there is an identified and undisputed need for improved mobile telecommunications provisions meaning that the installation has to be sited somewhere in the target area.
27. I have found that moderate harm would arise to the character and appearance of the area from the siting of the proposed development and there would be conflict with the LP in this regard. Nevertheless, it has been satisfactorily demonstrated that there are no suitable alternative sites. Therefore, unless the proposed site comes forward, the need for a telecommunications installation to provide new 5G coverage and capacity, and replacement 2G, 3G and 4G services to this area of Crosby would remain unmet.
28. Overall, I consider that the absence of a suitable alternative site means that the need for the installation to be sited as proposed taking into account any suitable alternative outweighs the moderate harm that would occur to the character and appearance of the area due to the siting and appearance of the proposal.

Other Matters

29. I have carefully considered all other matters raised by interested people, including in regard to narrow pavements, the effect on local businesses and Marine Football Club and health.
30. The proposal would not significantly impede the flow of pedestrians or compromise safety along College Road and there have not been any objections from statutory consultees.
31. I have had regard to the location of the proposal close to Marine Football Club. However, no robust evidence has been provided to substantiate the claim that the proposed column would significantly harm the visitor experience to the football ground or would affect local businesses. Also, it would be far enough away to avoid an impact on any schools or nurseries. It is also a well-founded

¹ LPA Ref: DC/2021/00538

principle that the planning system does not exist to protect private interests such as value of land or property².

32. Concerns have been raised about potential effects on health. However, 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. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
33. It is suggested that there would be no need for the proposed equipment. However, at paragraph 122 the Framework states that the need for electronic equipment should not be questioned.
34. My attention has been drawn by the Council to an appeal that was dismissed even though there was a lack of alternative sites³. However, I have not been provided with a copy of the decision or the specific circumstances of this appeal. As such, I have insufficient information to make a robust comparison. In any event, I am required to reach conclusions based on the individual circumstances of this appeal.
35. I note that several comments relate to a different proposal at Victoria Park, Park View, Waterloo⁴. The Council confirm this is due to there being a similar proposal under consideration at Victoria Park at the same time as this appeal.

Conditions

36. Any permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the Local Planning Authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the Local Planning Authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

37. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

A Veevers

INSPECTOR

² Planning Practice Guidance - Paragraph: 008 Reference ID: 21b-008-20140306

³ Appeal Ref: APP/Q4625/W/22/3294942

⁴ LPA Ref: DC/2023/01871