

Report of: CHIEF PLANNING OFFICER Derek McKenzie

Report to: PLANNING COMMITTEE **Date of Meeting:** 5th June 2024

Subject: **DC/2023/02125**
1-17 St Andrews Close And Adjacent Open Space, Maghull, L31 6EX

Proposal: Variation of conditions 1 and 14 pursuant to planning permission DC/2019/02432 approved 03/08/2020 for amendments to the surface treatment of the access road, driveways and landscaping for the public open space.

Applicant: Damfield Management **Agent:** Mr Richard Gee
Company Limited Roman Summer Associates Ltd

Ward: Sudell Ward **Type:** Variation of condition

Reason for Committee Determination: Discretion of Chief Planning Officer

Summary

The proposal seeks planning permission to vary conditions 1 and 14 of planning permission DC/2019/02432 for amendments to the surface treatment of the access road, driveways and landscaping of the public open space.

The main issues to consider are design, character and the impact on Damfield Lane Conservation Area and on trees and landscaping. The proposed amendments are considered to be acceptable and are in keeping with both the constructed development and the wider conservation area. The applicant has also demonstrated that funds will be in place to complete the works. The proposal therefore complies with the policies set out within the Sefton Local Plan and the Maghull Neighbourhood Plan and is recommended for approval subject to conditions.

Recommendation: Approve with conditions

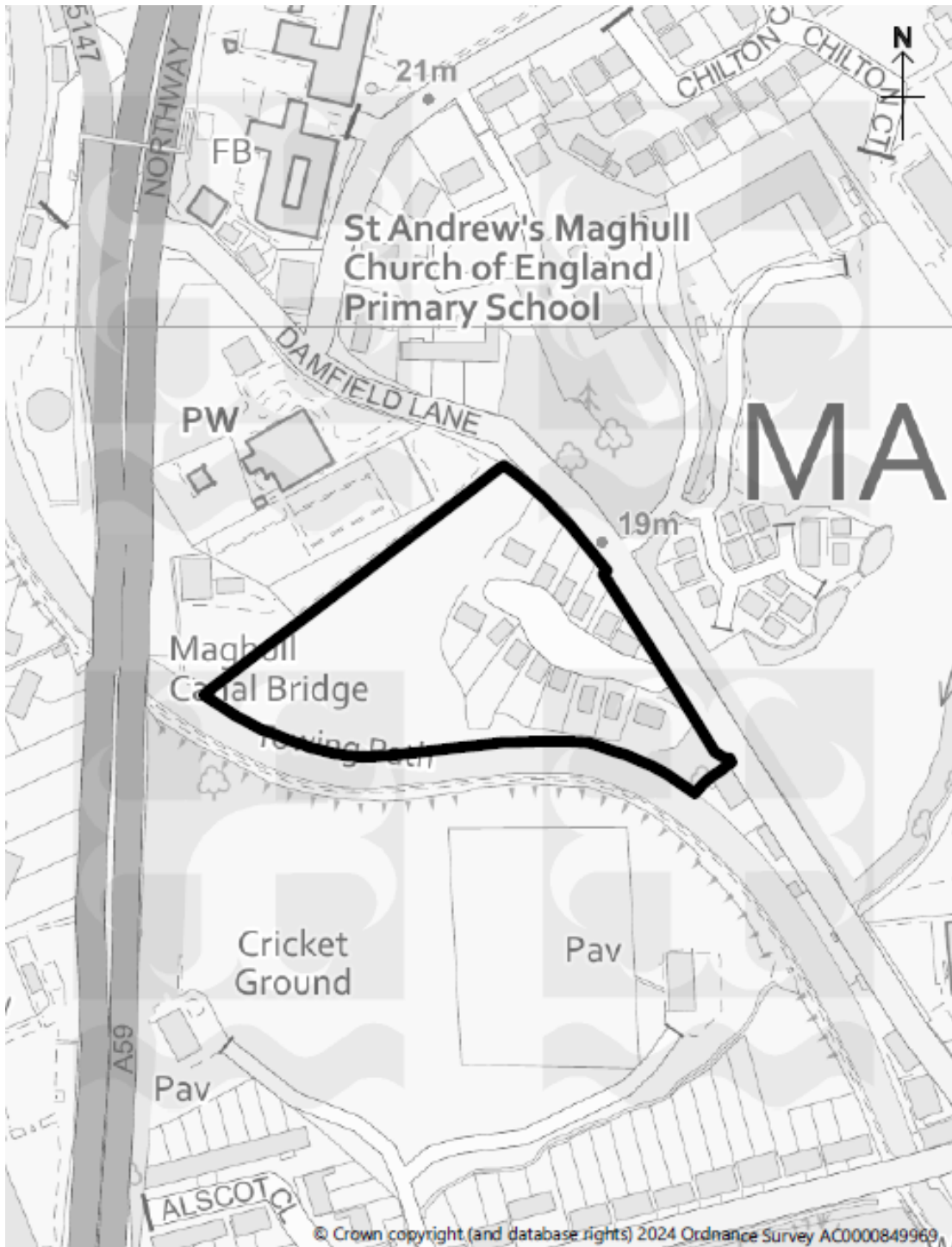
Case Officer John Kerr

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Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S58QN8NWIX600>

Site Location Plan



Sefton Council



Reference: Map reference

Date: 23/05/2024

Scale: Scale: 1:2500

Created by: Initials

The Site

The application site comprises a residential cul-de-sac of 14 dwellings with vacant land adjacent which is proposed to be used as community garden. The site is located within Damfield Lane Conservation Area, Maghull and is bounded by the Leeds and Liverpool Canal to the south and west, St Andrew's Church to the north and Damfield Lane to the West.

History

DC/2018/01681 – Erection of 14 detached dwellinghouses, access road and associated landscaping, a pond feature and nature trail. (Non-determination – allowed on appeal with conditions 22nd August 2019).

DC/2019/02432 – Variation of condition 2 pursuant to planning permission DC/2018/01681 (approved 22/8/2019) for amendments to the design, materials and internal layout of house types and landscape layout in order to fell 2 no. trees adjacent to the canal (Approved Conditionally 3rd August 2020).

DC/2020/02023 – Non-material amendment to planning permission DC/2019/02432 granted on 3/8/2020 for changes to the proposed houses, 2 new house types and landscaping (Approved 10th November 2020).

DC/2020/02059 – Variation of conditions 1, 14 and 16 pursuant to planning permission DC/2019/02432 approved 03/08/2020 to introduce gated access to the development (Refused - allowed on appeal with conditions 27th May 2021).

Consultations

Conservation Manager

No objection subject to a condition being attached for the fencing to protect the trees to be removed after landscape works are completed.

Merseyside Environmental Advisory Service (MEAS)

No objection

Highways Manager

No objection subject to the highway conditions requested for earlier applications still applying.

Flooding & Drainage Manager

The change of surface to the access road will not impact the drainage scheme as rain water will discharge to the attenuation pond with no infiltration.

Canal And River Trust

No objection. Suggestions made to replace *Betulus nigra* with a native species (eg. *Betula pendula*, *Sorbus aucuparia*, *Acer campestre*). The *Quercus robur* and *Fagus sylvatica* will need to be planted at least 10m back from the washwall edge to ensure that roots do not interfere with the canal infrastructure. All other species should be set at least 5m back from canal edge.

Local Planning Manager

No comment

Historic England

No comment

Tree Officer

No objection

Neighbour Representations

34 neighbouring occupiers were notified by letter on 22/12/2023 or 11/01/2024 and further notification took place on 04/04/2024. One representation was received objecting to the proposal on the following grounds:

- Grassed paths within the public open space will quickly turn to mud and will become unusable

Five representations were received supporting the proposal on the following grounds

- It is in the interest of all parties to get the works completed
- Approval of the application will allow the development to be completed to a high standard
- Supportive although not in line with monetary contribution towards managements works to complete the site

Policy Context

The application site lies within an area designated as 'white land' (i.e. land not allocated for a specific use) and a Conservation Area in the Sefton Local Plan which was adopted by the Council in April 2017. It is also included within the Old Hall Park Character Area within the Maghull Neighbourhood Plan which was made in January 2019 and carries full weight in decision making.

Assessment of the Proposal

1. Introduction

- 1.1 The proposal seeks to introduce a revised landscaping scheme which includes changes to the access road and also the soft and hard landscaping on site. The conditions to be varied are attached to what is in itself is a varied permission. These are 1 (list of approved plans) and 14 (landscaping layout).
- 1.2 The main issues to consider are the principle of development, design, heritage and highway safety.

2. Background

- 2.1 Application DC/2018/01681 was allowed on appeal. The inspector attached a condition to ensure that prior to occupation of any part of the development a landscaping scheme must be submitted to and approved in writing by the Local Planning Authority. It was also stipulated that the approved landscaping scheme should be carried out in full within 3 months of occupation of any part of the development. The legal agreement also stated that the owner agreed to provide the Community Orchard/Public Open Space in accordance with the general principles set out in the Landscape Layout prior to the occupation of any dwelling.
- 2.2 Application DC/2019/02432 to vary this application was approved with a condition to ensure the landscaping scheme was carried out in full within 3 months of occupation. A Deed of Variation was also included which secured the management and maintenance of the community orchard/public open space.
- 2.3 Application, DC/2020/02059, to further vary the application was approved with the condition to ensure the landscaping scheme was carried out in full within 3 months of occupation. Again, a Deed of Variation was included; however, the delivery time was changed to read "prior to the Occupation of the final Dwelling".
- 2.4 The hard and soft landscaping scheme to date has not been implemented. The applicant has explained that the developer no longer had the funds to complete the works to pave the road and to finish the driveways in resin bound gravel or to implement the landscaping scheme. There was also some ambiguity in the varied conditions about when precisely the landscaping scheme should take place. The trigger for the requirement for the Community Orchard/Public Open Space was "prior to occupation of the final dwelling". The final dwelling was occupied in August 2023, but implementation has not yet commenced.

- 2.5 The current applicants are now the local residents who have set up the Damfield Management Company Ltd. When the application was originally submitted, the company had no funds in place for any works. The proposed works will be funded by the Management Company arising from the service charge paid by all residents. Funds are expected to be in place by summer 2024 to fund the surfacing of the access road and driveways in tarmac. Once all the funds are in place, the approved landscape layout is anticipated to be completed. This is proposed to take place in two phases over two planting years. The details have been agreed by the applicant and are recommended to be secured by condition.
- 2.6 While design and character are assessed in full below it is considered that what is proposed is, in these exceptional circumstances, a pragmatic solution to allow a material of a lower specification to be used to lay the access road and driveways.
- 2.7 Public open space is normally required where there are 150 or more dwellings in the scheme or where there are 11 or more dwellings, and the site is over 2km from a 'main park' or a Countryside Recreation Area. As the site is less than 1.2km from Sefton Meadows Countryside Recreation Area, there is no requirement for the development to provide public open space.
- 2.8 The open space was instead introduced into the scheme in order to improve the Conservation Area setting whilst also softening the appearance of the development when viewed in the context of the listed building. It is considered therefore that the layout of the proposed amenity space meets its required function. The proposed public open space and soft landscaping within the residential development will retain its high specification with only minor differences from previously approved schemes. It is in the interests of local residents to complete these works as soon as practicably possible, with timescales that can be agreed through conditions.

3. Design, Character and Impact on Damfield Lane Conservation Area

- 3.1 The application site lies within Damfield Lane Conservation Area which encompasses a number of Maghull's earliest buildings including St. Andrew's Church and Maghull Chapel are noted for maintaining a rural character despite now being surrounded by modern development. Prior to development the application site comprised an undeveloped field which adjoined St Andrew's church ground and the Leeds and Liverpool Canal, being separated from Damfield Lane by an historic stone wall and many trees.

3.2 The landscaping scheme would largely remain the same. Differences include the introduction of tarmac to the whole of the access road, driveways and the retention of existing timber fencing between all adjacent boundaries for rear garden plots on both sides of the road. Tarmac is a normal treatment within the locality. Given that the site is in a Conservation Area, the introduction of higher quality materials was the preferred option, however it is not considered to be essential for the scheme to be acceptable. Therefore, the alternative material of tarmac is considered appropriate. The introduction of boundary fencing between plots (within drawing no. 492/P/02 Rev F) to replace boundary hedging is considered to be an appropriate approach given that the timber fencing will not be readily visible from public vantage points.

3.3 The proposal is considered to accord with Local Plan policy EQ2 (Design) and NH12 (Conservation Areas) and Maghull Neighbourhood Plan policy MAG 4 (Residential Character Areas).

4. Trees and Landscaping

4.1 As mentioned above, the proposal will largely remain the same with the number and species of trees which was considered to be sufficient to mitigate the loss of trees originally removed to accommodate the development.

4.2 There is an objection regarding the proposed grass footpath replacing a previously proposed gravel path within the public open space. The originally approved gravel path was not considered to be essential for the scheme to be acceptable. As discussed above, this application provides a lower specification compared to the originally approved scheme to enable it to be completed. The proposal is considered to offer a pragmatic solution and whilst it may not be the preferred approach, it is acceptable in policy terms and is an affordable option for the residents. The omission of the gravel may make the open space less accessible for some users. In this instance the open space was not required because there was a deficit of public open space in the area, but because it formed an important part of the proposal in design and conservation terms, including the setting of the Listed Building. As designed it will continue to meet these requirements.

4.3 The proposal is considered to accord with Local Plan policy EQ9 (Provision of Public Open Space, Strategic Paths and Trees).

5. Other Matters

5.1 Where conditions remain relevant, they will be attached to the decision notice for the current application. Different delivery triggers will be introduced as the site has now been occupied.

5.2 A Deed of Variation to the Section 106 legal agreement will also be required to substitute the existing landscaping plan and to amend delivery triggers for the scheme.

5.3 The Highways Manager has confirmed that the development will not be adopted by the Local Highway Authority. Therefore, a condition for a traffic regulation order for a 20mph speed limit on the proposed access road is no longer required.

5.4 The applicant has confirmed that the infrastructure for full fibre broadband has been installed. Therefore, a condition to require this is no longer necessary.

6. Equality Act Consideration

6.1 Section 149(1) of the Equality Act 2010 establishes a duty for the Council as a public authority to have due regard to three identified needs in exercising its functions. These needs are to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- Advance equality of opportunity between people who share a relevant protected characteristic (age, disability, race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion and belief, sex and sexual orientation) and people who do not share it;
- Foster good relations between people who share a relevant protected characteristic and those who do not share it.

6.2 The proposed open space landscaping could mean it is not easily accessibility to some potential users, however the primary purpose of the open space was to provide an appropriate setting for the Listed Building. There was not a policy requirement to provide open space due to the amount of housing proposed or a shortfall of open space elsewhere therefore the proposal provides an acceptable quality of accommodation for occupiers as proposed. The decision to approve this scheme would comply with the requirements of the Equality Act 2010, that no one with a protected characteristic will be unduly disadvantaged by this development.

7. Conclusion

7.1 The proposed amendments are considered to be acceptable and are in keeping with both the constructed development and the wider conservation area. Overall, the proposal preserves the character and appearance of the Damfield Lane Conservation Area, the proposal also complies with the Maghull Neighbourhood Plan, the Local Plan and also national policy and is recommended for approval subject to conditions and a Deed of Variation to the legal agreement.

Recommendation – Approve with Conditions

Conditions:

- 1) The development hereby granted must be carried out strictly in accordance with the following details and plans:
 - Proposed Location Plan (A003 Rev P05)
 - Proposed Site Plan (A004 Rev P05)
 - Proposed Block Plan (A005 Rev P05)
 - Access Layout (J977 Access Fig 1 Rev E)
 - House Type 1 Plans and Elevations (A101 Rev P02 and A102 Rev P05)
 - House Type 2 Plans and Elevations (A103 Rev P02 and A104 Rev P05)
 - House Type 3 Plans and Elevations (A105 Rev P02 and A106 Rev P05)
 - House Type 2A Plans and Elevations (A107 Rev P02 and A108 Rev P05)
 - Material Specifications (A901 Rev P01)
 - Site Section A-A (A007 Rev P02)
 - Site Section B-B (A008 Rev P02)
 - Archaeological Evaluation at Damfield Land document (ARS Ltd Report 2019/224)
 - Otter and Water Vole Survey (Rachel Hacking Ecology, dated October 2019)
 - Revised landscape layout for POS and hard landscaping within new housing (492/P/02 Rev F)

Reason: For the avoidance of doubt.

- 2) The provisions of the approved Construction Traffic Management Plan (Brierstone), confirmation to Canal and River Trust Third Party Works Agreement email dated 14th February 2020 and Initial Site Setup and Traffic Management Plan (as per approval of details application DC/2019/02216) shall be implemented in full during the period of construction.

Reason: In the interest of highway safety and to protect the ecological interest of the area, minimise waste and prevent pollution.

- 3) Tree protection barriers as specified within the Arboricultural Method Statement shall be maintained in a satisfactory manner around the outer limit of the crown spread of all retained trees until the surfacing of the access road is completed. During the period of construction, no material shall be stored, or trenches dug within these enclosed areas.

Reason: To prevent damage to the trees in the interests of visual amenity and conservation.

- 4) The approved sustainable drainage system (Proposed Drainage Plan (18-1023-210 Rev P1), Attenuation Pond (18-1023-205 Rev P3), Sustainable Urban Drainage Management Plan and email correspondence (dated 1st March 2021) confirming all aspects of the sustainable drainage system will be maintained by the Development's Management Company shall be fully constructed prior to the surfacing of the access road, and managed and maintained thereafter in accordance with the approved details.

Reason: To ensure satisfactory drainage facilities are provided to serve the site.

- 5) Within six months of the date of this decision notice, the provision of the approved access onto Damfield Lane referenced 18-1023-500 Rev P3 (as per approval of details application DC/2020/01953) shall be implemented and constructed in accordance with this approved scheme.

Reason: In the interests of highway safety and ensuring suitable access.

- 6) Within six months of the date of this decision notice, the provision of the approved off-site improvements referenced 18-1023-500 Rev P3 (as per approval of details application DC/2020/01953) shall be implemented and constructed in accordance with this approved scheme.

Reason: In the interests of highway safety and to improve accessibility to public transport.

- 7) Within six months of the date of this decision notice areas for vehicle parking, turning and manoeuvring shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved Revised landscape layout for POS and hard landscaping within new housing - 492/P/02 Rev F and these areas shall be retained thereafter for that specific dwelling.

Reason: In the interests of highway safety.

- 8) The provision of the approved street lighting (as per approval of details application DC/2020/01943) shall be managed and maintained thereafter in accordance with the approved details.

Reason: In the interests of highway safety.

- 9) The provision of the approved Electrical Vehicle Charging points referenced WallPod:EV Technical Data Sheet, Proposed Electrical Services Layout, House Types 1, 2, 2a and 3, 169/HT1/E01 T1, HT2/E01 T1, HT2A/E01 T1 and HT3/E01 T1 (as per approval of details application DC/2020/01943) shall be permanently retained thereafter.

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

10) Following the completion of the landscaping scheme (ref. Revised landscape layout for POS and hard landscaping within new housing - 492/P/02 Rev F), the approved bird boxes shall be fitted to trees, while swift bricks and sparrow terraces must be included within the construction of each dwelling (as per approval of details application DC/2019/02216).

Reason: To mitigate the loss of and provide enhanced habitats.

11) The recommendations of the approved Japanese Knotweed Method Statement dated 6th January 2020 along with the 30th January clarification letter, Cross Section of Excavation (JK19- 5740-07 Rev A) and full Excavation Option in Relation to Horse Chestnut Tree (JK19- 5740-06) shall be carried out in full.

Reason: In order to prevent the spread of an invasive species across the site.

12) Within six months of this decision notice, the access road shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved *Revised landscape layout for POS and hard landscaping within new housing - 492/P/02 Rev F*.

Reason: In the interests of visual amenity, protecting the character and appearance of Damfield Lane Conservation Area and ensuring privacy.

13) Planting in accordance with the approved soft landscaping scheme within the *Revised landscape layout for POS and hard landscaping within new housing - 492/P/02 Rev F* shall begin within the 2024 – 2025 planting season and planting shall be completed within the 2025 – 2026 planting season. 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: In the interests of visual amenity, protecting the character and appearance of Damfield Lane Conservation Area and ensuring privacy.

14) Prior to the Revised landscape layout for POS and hard landscaping within new housing - 492/P/02 Rev F being implemented, the *Betula nigra* shall be replaced with a native species (e.g. *Betula pendula*, *Sorbus aucuparia*, *Acer campestre*).

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

15) The *Quercus robur* and *Fagus sylvatica* shall be planted at least 10m back from the washwall edge.

Reason: To ensure that the roots do not interfere with the canal infrastructure.

16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no garages, outbuildings or other extensions to a dwelling shall be erected other than those expressly authorised by this permission.

Reason: In order to protect the character and appearance of Damfield Lane Conservation Area and in particular views from the canal.

17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no gate, fence, wall or other means of enclosure shall be erected other than those expressly authorised by this permission.

Reason: In order to protect the character and appearance of Damfield Lane Conservation Area and in particular views from the canal.