

## Appeals Received and Decisions Made

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Appeals received and decisions made between [22 March 2024](#) and [16 May 2024](#)

## Appeal Decisions

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### [13 Rosemary Lane Formby Liverpool L37 3HA](#)

**Reference:** DC/2019/01441 (APP/HH/2014)

High hedge complaint

**Procedure:** Written Representations

**Start Date:** 09/03/2023

**Decision:** Part Allow/Dismissed

**Decision Date:** 15/05/2024

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### [Land At The Junction Of Derby Road And Strand Road Bootle Liverpool L20 8EE](#)

**Reference:** DC/2023/01407 (APP/M4320/Z/24/3337440)

Advertising consent to display a freestanding internally illuminated 48 sheet digital LED advertisement display sign to replace the existing sign.

**Procedure:** Householder Appeal

**Start Date:** 07/03/2024

**Decision:** Allowed

**Decision Date:** 13/05/2024

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### [65 Scarisbrick New Road Southport PR8 6LF](#)

**Reference:** DC/2023/01092 (APP/M4320/W/23/3335615)

Creation of a new driveway, vehicular access to Curzon Road, a new external door and reconfiguration of fire escape.

**Procedure:** Written Representations

**Start Date:** 27/02/2024

**Decision:** Dismissed

**Decision Date:** 26/04/2024

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### [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:** Allowed

**Decision Date:** 24/04/2024

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### [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:** Dismissed

**Decision Date:** 12/04/2024

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

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

**Procedure:** Householder Appeal

Appeals received and decisions made between [22 March 2024](#) and [16 May 2024](#)

Construction of a vehicular access to a classified road

**Start Date:** 15/02/2024  
**Decision:** Dismissed  
**Decision Date:** 11/04/2024

## New Appeals

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### [8 Glenpark Drive Southport PR9 9FA](#)

**Reference:** DC/2023/01683 (APP/M4320/W/23/3335572)  
Change of use from dwellinghouse (C3) to a 2 person residential supported living dwellinghouse (C2)

**Procedure:** Written Representations  
**Start Date:** 15/04/2024  
**Decision:**  
**Decision Date:**

### [Moor House The Northern Road Crosby L23 2RA](#)

**Reference:** DC/2023/01952 (APP/M4320/Z/24/3337983)  
Advertisement consent for the display of three non-illuminated signs. (Alternative to DC/2023/00799 refused 19 July 2023)

**Procedure:** Householder Appeal  
**Start Date:** 10/05/2024  
**Decision:**  
**Decision Date:**

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

**Reference:** DC/2023/01653 (APP/M4320/D/24/3337988)  
Erection of a dormer extension with a balcony to the rear of the dwellinghouse (Retrospective) (Alternative to DC/2023/00346 refused 07.07.2023)

**Procedure:** Householder Appeal  
**Start Date:** 28/03/2024  
**Decision:**  
**Decision Date:**

### [117 Liverpool Road Birkdale Southport PR8 4BZ](#)

**Reference:** DC/2023/00737 (APP/M4320/W/24/3337581)  
Reserved matters consent is sought pursuant to outline planning permission DC/2020/02573 approved 31/5/2022 - for access, appearance, landscaping, layout, scale and other associated works.

**Procedure:** Written Representations  
**Start Date:** 22/04/2024  
**Decision:**  
**Decision Date:**

### [Land To The Rear Of 1-3 Aughton Road Birkdale Southport PR8 2AF](#)

**Reference:** DC/2023/01679 (APP/M4320/W/24/3338768)  
Approval of details reserved by conditions 5, 6, 7 and 8 attached to planning permission DC/2019/01901 approved on 21.05.2020

**Procedure:** Written Representations  
**Start Date:** 16/04/2024  
**Decision:**  
**Decision Date:**

### [372 Liverpool Road Birkdale Southport PR8 3BZ](#)

**Reference:** DC/2022/02294 (APP/HH/2150)  
**Procedure:** Written Representations

High Hedge Complaint

**Start Date:** 08/04/2024  
**Decision:**  
**Decision Date:**

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## 26 Stanley Park Litherland L21 9JT

**Reference:** DC/2023/01611 (APP/M4320/W/24/3338031)

Erection of a dwelling with additional parking, following the demolition of existing garage and wall, within the curtilage of 26 Stanley Park

**Procedure:** Written Representations  
**Start Date:** 26/03/2024  
**Decision:**  
**Decision Date:**

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## 25 Botanic Road Southport PR9 7NG

**Reference:** DC/2023/00374 (APP/M4320/W/24/3339834)

Removal of condition 7 and variation of conditions 8 and 9 pursuant to planning permission DC/2021/02153 approved on 22/03/2022 to allow the rear garden to be used by customers/children, increase the opening hours to include the occasional Sunday from 10.00am to 16.00pm and increase the number of children on the premises to 20.

**Procedure:** Written Representations  
**Start Date:** 14/05/2024  
**Decision:**  
**Decision Date:**

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## 43 Blundell Road Hightown Liverpool L38 9EF

**Reference:** DC/2023/00203 (APP/HH/2152)

High Hedge Complaint

**Procedure:** Written Representations  
**Start Date:** 08/04/2024  
**Decision:**  
**Decision Date:**

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## 8 Hastings Road Birkdale PR8 2LS

**Reference:** DC/2023/02023 (APP/M4320/D/24/3341511)

Extension to the first floor balcony at the rear of the dwelling including extension of 1.1m safety balustrade to the rear elevation and installation of 1.7m balustrade/obscure glazed screen to the north side of the proposed balcony area (part retrospective)

**Procedure:** Householder Appeal  
**Start Date:** 24/04/2024  
**Decision:**  
**Decision Date:**

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## 191 Moorhey Road Maghull L31 5LG

**Reference:** DC/2023/01855 (APP/M4320/D/24/3340729)

Erection of a new fence from a height of 1270mm to 1740mm along the side and the front of the dwellinghouse (Retrospective)

**Procedure:** Householder Appeal  
**Start Date:** 26/04/2024  
**Decision:**  
**Decision Date:**



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# Appeal Decision

Site visit made on 26 March 2024

**by Mark Caine BSc (Hons) MTPL MRTPI LSRA**

an Inspector appointed by the Secretary of State

Decision date: 15 May 2024

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**Appeal Ref: APP/HH/2014**

**Hedge at 13 Rosemary Lane, Formby L37 3HA**

- The appeal is made under section 71(1) of the Anti-social Behaviour Act 2003 (the Act).
  - The appeal is made by Mr Jack Thomas, hedge owner, against a Remedial Notice (RN) issued by Sefton Metropolitan Borough Council.
  - The complaint, reference BLC/009622/01176311 is undated.
  - The Remedial Notice is dated 14 October 2021.
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## Decision

1. The appeal is allowed in part and the RN is corrected and varied in the terms set out in the RN attached to this decision.

## Background

2. A complaint was made from the occupiers of 157 Lonsdale Road about the appeal hedge in 2019 under Part 8 of the Act. The complaint was upheld, and the Council issued a remedial notice on 16 January 2020 (RN1). The Council subsequently withdrew RN1 and served a second remedial notice on 14 October 2021 (RN2), which also related to the reasonable enjoyment of the property at No 157. Little substantive evidence has been provided by the Council to explain why RN1 was withdrawn and replaced by RN2. Nonetheless, the appeal has been made against RN2 and I have proceeded on this basis.

## Main Issue

3. The main issue is whether RN2 is reasonable and appropriate.

## Reasons

4. The hedge comprises a row of conifer trees growing within the garden of 13 Rosemary Lane along a boundary shared with a residential property at No 157. The hedge runs along approximately half of the width of the rear boundary of No 157 and forms a part of a wider hedgerow.
5. Loss of daylight and sunlight to a property that is caused by the height of a neighbour's hedge is normally deemed to be unreasonable if the hedge is growing above the Action Hedge Height (AHH). The Council has not provided any justification in respect of how the AHH measurement within RN2 has been calculated.
6. Instead, it has submitted the complaint assessment report that was used to determine the AHH within RN1. This states that the Council assessed the impact of the hedge on No 157's property according to the methodology

formulated by the Building Research Establishment Hedge Height (HH) and Light Loss (LL) published by the Government in October 2005 (BRE guidance). This publication sets out the formulae for calculating loss of light to habitable room windows and gardens.

7. At the time of the original site inspection, the Council measured the height of the hedge to be around 8.5 metres (m) and for the effective length of the hedge to be 4.4m, as it does not run along the full 9m width of No 157's rear garden. Where the length of the hedge is less than the length of the boundary it grows on, the BRE guidance sets out in section 4.2, that the formula for non-rectangular gardens should be used. For non-rectangular gardens, which applies here, it is the area of the garden divided by the effective hedge length, then multiplied by the relevant orientation factor which gives the AHH.
8. The AHH for the garden was calculated by the Council as being 5.15m (90.6m area of garden / 4.4m effective hedge length x 0.25 orientation factor), and 7.60m for the window respectively. According to the BRE guidance, it is the lower of the AHH heights which should determine the overall AHH. Thus, the overall AHH for RN1 was given as 5.15m. The appellant and complainant have not specifically challenged these measurements and I have no substantive reason to conclude that they were incorrect in any way. Therefore, as the hedge was higher than the overall AHH it resulted in a loss of daylight and sunlight to the windows and rear garden area of No 157, and subsequently had an adverse effect on the reasonable enjoyment of the complainant's property.
9. At the time of my site visit it was apparent that some works had been carried out on the hedge and that it had subsequently been reduced in height. Local residents consider the entire hedge as shown on the red line of the attached plan to RN2 should be reduced in height.
10. However, the spreadsheet to calculate the AHH within the BRE guidance defines the term 'effective hedge length' as the length of the hedge that runs parallel to the garden boundary (of the complainant). It also clearly states that the effective length of the hedge cannot be more than the width of this garden boundary and illustrates a similar example to the appeal hedge in 'Figure 3. Examples of the measurement of effective hedge length'.
11. The red line of the hedge, as identified in the attached plan to RN2, extends across the boundaries of No 157 and 159's rear garden areas and is clearly longer than No 157's garden width. It is also substantially longer than the 4.4m effective hedge length used to calculate the AHH for RN1, which has remained as an unsubstantiated AHH of 5.15m for RN2. As such, this cannot be correct, reasonable and appropriate. Moreover, whether or not the area of the hedge to the rear of No 159 impacts on the reasonable enjoyment of the owners or occupiers of that property is not before me as the appeal relates only to a complaint made by the owner/occupier of No 157.
12. I also see no justification on visual amenity grounds for all of the hedge, as illustrated in the attached plan to RN2, to be reduced in height. Although the hedge owner may choose to lower the whole hedge that would be a matter for the owner. I shall therefore revise the attached plan to clearly identify the appeal hedge with a black line running along the rear boundary of No 157 only. This would still result in significant improvements to light reaching the back garden area and windows of No 157 and thus the occupier's reasonable enjoyment of their property.

13. In determining works related to a RN, the future health of the hedge is a consideration which must be taken into account. The suggested staged reduction is a reasonable approach to take to maintain the health of the hedge. As such, I am satisfied that the staged reduction heights, with a preventative action height of 5.15m to ensure future maintenance and mitigation are reasonable and appropriate in this instance.
14. I appreciate that the initial action and second stage reductions may have already been carried out. Nevertheless, *The High Hedges Complaints: Prevention and Cure* publication (P&C) requires that a RN must explain what action must be taken in relation to the hedge in order to remedy the adverse effect and, if necessary, to prevent it recurring ("initial action") and by when ("the compliance period"); and what further action, if any, is required to prevent longer-term recurrence of the adverse effect ("preventative action"). The initial action must therefore be included in the revised RN.
15. However, the Act makes no provision for a timetable to be set for each stage of the works, only for a compliance period within which the overall initial action must be completed. Individual dates for staged cuts cannot be enforced and I have thus corrected the RN to reflect this. Furthermore, the compliance period of 3 months is clearly not practical to carry out these staged works to ensure that the future health of the hedge is not compromised.
16. I have thus corrected the RN and have given a compliance period of 15 months from the operative date, which is now the date of this decision. I am satisfied that this does not cause any injustice to the parties given that the overall period for all of the works remains the same. Nevertheless, I have included an informative to recommend that the stage reduction works are completed in line with the timeframes suggested by the Council. An informative concerning the need for the actions specified in the revised RN to be carried out so as not to disturb wild animals protected by the Wildlife and Countryside Act 1981 has also been included.

## **Conclusion**

17. I therefore conclude that the appeal should be allowed in part and that the requirements and plan of RN2 shall be corrected and varied so that there is a revised RN which:
  - revises the attached plan to clearly identify the appeal hedge (black line);
  - corrects matters relating to compliance period; and
  - revises the operative date of the RN so that it takes effect on the date of the decision.

*Mark Caine*

INSPECTOR

**IMPORTANT: this Notice affects the property at**

**13 Rosemary Lane, Formby L37 3HA**

**ANTI-SOCIAL BEHAVIOUR ACT 2003**

**PART 8: HIGH HEDGES**

**REMEDIAL NOTICE**

**CORRECTED AND VARIED BY Mark Caine BSc (Hons) MTPL MRTPI LSRA**

**Appointed by the Secretary of State for Communities and Local Government under Section 72(3) of the above Act.**

**1. THE NOTICE**

This notice is sent under Section 73 of the Anti-social Behaviour Act 2003 and pursuant to a complaint about the high hedge specified in this notice.

The notice is sent because it has been decided that the hedge in question is adversely affecting the reasonable enjoyment of the property at 157 Lonsdale Road, Formby L37 3HF and that the action specified in this notice should be taken to remedy the adverse effect and to prevent its recurrence.

**2. THE HEDGE TO WHICH THE NOTICE RELATES**

The hedge comprises a row of conifer trees on the northern boundary of 13 Rosemary Lane, Formby L37 3HA shown marked black on the plan attached to this notice.

**3. WHAT ACTION MUST BE TAKEN IN RELATION TO THE HEDGE**

**3.1 Initial Action**

I require the following steps to be taken in relation to the hedge before the end of the period specified in paragraph 4 below:

- i. Reduce the hedge identified on the attached plan with a black line to a height not exceeding 4.6m above ground level.

**3.2 Preventative Action**

Following the end of the period specified in paragraph 4 below, I require the following steps to be taken in relation to the hedge:

- i) Maintain the hedge identified on the attached plan with a black line so that at no time does it exceed a height of 5.15m above ground level.

**4. TIME FOR COMPLIANCE**

The initial action specified in paragraph 3.1 to be complied with in full within 15 months of the date specified in paragraph 5 of this Notice.

**5. WHEN THIS NOTICE TAKES EFFECT**

This Notice takes effect on the date of this decision.

**6. FAILURE TO COMPLY WITH THE NOTICE**

Failure by any person who, at the relevant time is an owner or occupier of the land where the hedge specified in paragraph 2 above is situated:

- a. to take action in accordance with the Preventative Action specified in paragraph 3.2 by any time stated there,

may result in prosecution in the Magistrates Court with a fine of up to £1,000. The Council also has power, in these circumstances, to enter the land where the hedge is situated and carry out the specified works. The Council may use these powers whether or not a prosecution is brought. The costs of such works will be recovered from the owner or occupier of the land.

Signed: *Mark Caine*

Dated: **15 May 2024**

**Informative**

It is recommended that:

The hedge identified on the attached plan with a black line be reduced to a height not exceeding 6m above ground level within a period of 3 months from the date specified in paragraph 5 of this Notice.

The initial action set out in paragraph 3.1 of this Notice to be completed by the end of the compliance period set out in paragraph 4 from the date specified in paragraph 5 of this Notice.

All works should be carried out in accordance with good arboricultural practice, advice on which can be found in BS 3998: 'Recommendations for Tree Work'.

Skilled contractors are employed to carry out this specialist work. For a list of approved contractors to carry out works on trees and hedges, see the Arboricultural Association's website at [www.trees.org.uk](http://www.trees.org.uk) or contact 01242 522152.

In taking action specified in this Notice, special care should be taken not to disturb wild animals that are protected by the Wildlife and Countryside Act. This includes birds and bats that nest or roost in trees. The bird nesting season is generally considered to be 1 March to 31 August.





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## Plan

This is the plan referred to in my decision dated: **15 May 2024**

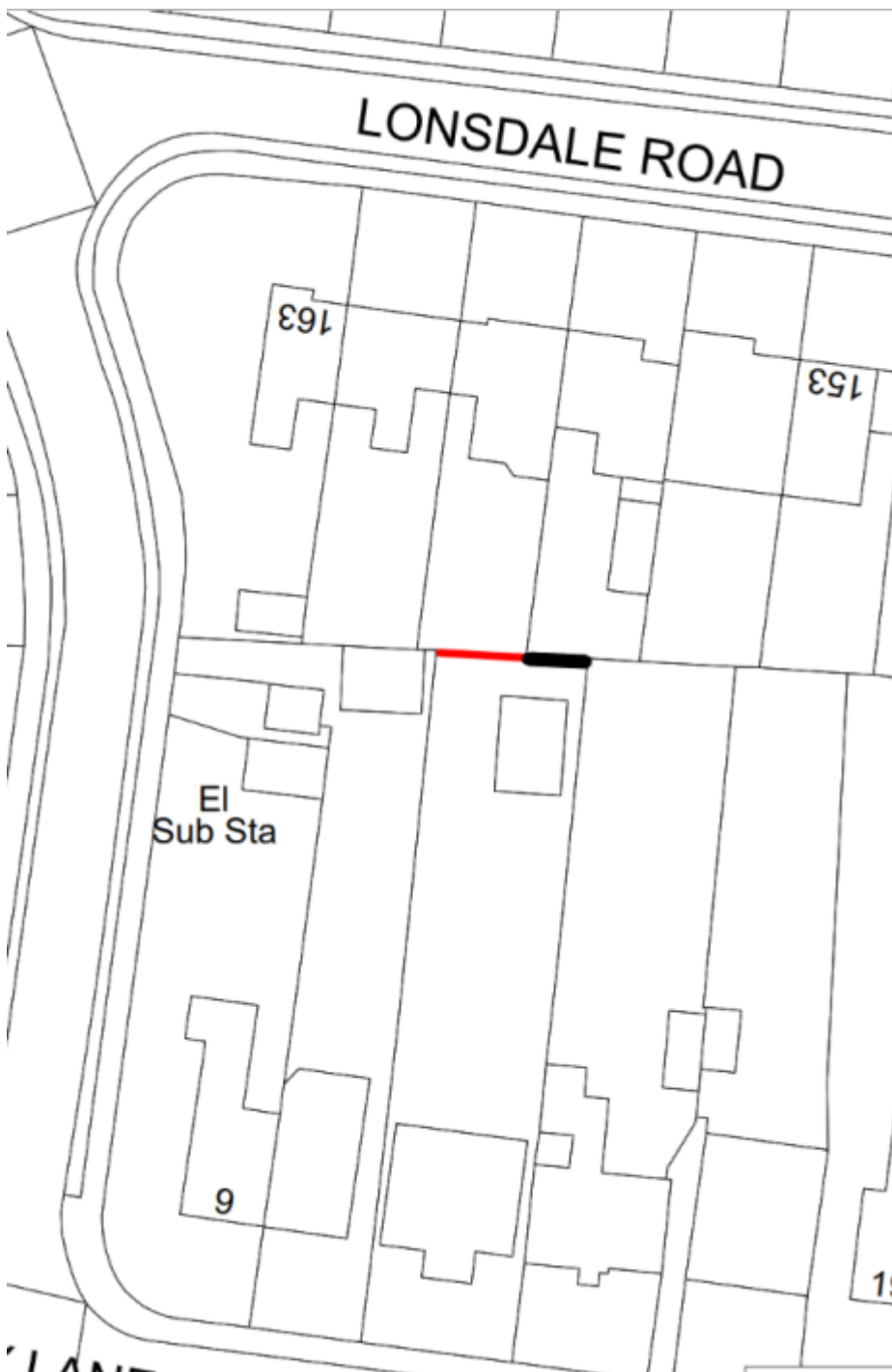
**by Mark Caine BSc (Hons) MTPL MRTPI LSRA**

**Hedge at: 13 Rosemary Lane, Formby L37 3HA**

**Reference: APP/HH/2014**

Scale: Not to scale

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# Appeal Decision

Site visit made on 26 April 2024

**by S. Hartley BA(Hons) Dist.TP (Manc) DMS MRTPI MRICS**

an Inspector appointed by the Secretary of State

Decision date: 13 May 2024

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**Appeal Ref: APP/M4320/Z/24/3337440**

**Land at the junction of Derby Road and Strand Road, Bootle, Liverpool L20 8EE**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by JCDecaux Limited against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2023/01407, dated 9 August 2023, was refused by notice dated 12 December 2023.
  - The advertisement proposed is a single leg, free standing advertising structure featuring one internally illuminated sequential display screen.
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## Decision

1. The appeal is allowed, and express consent is granted for a freestanding internally illuminated 48 sheet digital LED advertisement display sign to replace the existing sign on land at the junction of Derby Road and Strand Road, Bootle, Liverpool, L20 8EE, in accordance with application ref: DC/2023/01407, dated 9 August 2023, and subject to the five standard conditions set out in the Regulations and also to the additional conditions included in the attached schedule.

## Procedural Matters

2. The appellant describes the proposal as for *'a single leg, free standing advertising structure featuring one internally illuminated sequential display screen'*, whereas the local planning authority (LPA) describes it as *'a free standing internally illuminated 48 sheet digital LED advertisement display sign to replace the existing sign'*. I have considered the appeal using the latter description as it provides additional precision.
3. The LPA has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as a material consideration. However, powers under the regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.
4. A revision to the National Planning Policy Framework 2023 (the Framework) was published on 19 December 2023. The amendments made did not have a bearing upon the main issue in this appeal, and it was therefore not necessary

to seek comments from the main parties upon it. Where I have referred to the Framework, it is that of the December 2023 version.

### **The Main Issue**

5. The LPA makes no objection to the proposal upon grounds of visual amenity, and I have no reason to disagree. Therefore, the main issue is the effect of the proposed advertisement upon highway safety.

### **Reasons**

6. The proposed replacement advertisement display would be located at a heavily traffic controlled junction at Derby Road with Strand Road, and where there are currently two similar, but separately located advertisement displays, one facing south along Derby Road and the other facing north. The south facing display has a digital form whereas the north facing display, which is the subject of the appeal, has a back-lit mechanical sequence display.
7. The appeal proposal is to mirror the technology and display characteristics of the south facing advertisement. In this regard, the support structure and the size of the display panel would not change for the existing advertisement.
8. The south-bound carriageway consists of five lanes leading to the traffic-light controlled junction, with three lanes continuing straight forward beyond the lights and with the other lanes providing turning space through the junction.
9. The main parties agree that the changes to displayed images should not be so frequent as to engage the attention of drivers so as to cause a distraction, and that changes to displayed images should be no less than every 10 seconds. There is also agreement that such images should be static, with no sequencing for a product or attraction which can tell a story and where drivers might be tempted to wait for, and look at, the next story display and which again would lead to a reduction in highway safety at the junction. I have no reason to disagree.
10. The point of contention between the main parties is the level of luminosity of the proposed display and whether it would be so great as to unacceptably compete with and confuse drivers with regard to the traffic lights and the turning signals of other drivers.
11. The appellant has proposed levels of luminosity some 30% below the recommended night-time levels of the Institute of Lighting Professionals (ILP), though which recognises that every case must be determined upon its merits.
12. On my site visit, I was able to see that, while the junction is heavily trafficked, it is not an unduly complex one and is well lit. Moreover, the proposed display would be mainly directly in front of the drivers' views such that those travelling directly forward would not have to turn away from the road to look at the advertisements shown on the display.
13. Furthermore, I have no information before me as to any luminosity limits upon the existing display to be replaced or indeed, on any such limits felt necessary

to be imposed by the LPA upon the other existing signage display at the junction.

14. When taking into account the above matters, I have no reason to believe that the reduced luminosity levels from those recommended by the ILP would cause unacceptable harm to highway safety. Furthermore, there is no evidence that it would be any more harmful than current luminosity levels.

15. Therefore, I conclude that the proposal would accord with policy EQ11 of the Sefton Local Plan (2017) and with paragraph 141 of the Framework in so far as they seek to create places that are safe.

### **Conditions**

16. The consent is for ten years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions. I have not been provided with any reason why the application for a ten year period would be unacceptable.

17. I have imposed a condition relating to the approved plans in the interests of certainty.

18. I have imposed conditions relating to the frequency of changes to the displayed images and to their content and luminosity in the interests of highway safety.

### **Conclusion**

19. For the above reasons, I conclude that the appeal should be allowed.

*S. Hartley*

INSPECTOR

### **Schedule of conditions**

1. The consent is for ten years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions.
2. The development hereby permitted shall be carried out in accordance with the following plans: A02279, part 1 dated August 2023 (proposed block plan) and A02279, part 2 dated August 2023 (panel specification and screen specification)
3. The internally illuminated advertisement hereby approved shall not have any intermittent light source, or display any moving or apparently moving images, animation or video.
4. The internally illuminated advertisement hereby approved shall not change more frequently than once every 10 seconds, the sequential change between advertisement displays shall take place over a period of no greater than 0.1 second and the display shall include a mechanism to freeze the image in the event of a malfunction.
5. The internally illuminated advertisement hereby approved shall not display images or information that require close study such as email addresses or telephone numbers.
6. The internally illuminated advertisement hereby approved shall not display images or information that resemble official road traffic signs, traffic lights or traffic matrix signs.
7. The intensity of the illumination of the internally illuminated 48 sheet digital LED advertisement display permitted by this consent shall be no greater than 800 candela per square metre during daylight hours and 225 candela per square metre during twilight and night hours, as defined by official lighting up times.



# Appeal Decision

Site visit made on 10 April 2024

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 April 2024**

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**Appeal Ref: APP/M4320/W/23/3335615**

**65 Scarisbrick New Road, Southport, PR8 6LF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Javed against the decision of Sefton Metropolitan Borough Council.
  - The application Ref is DC/2023/01092.
  - The development proposed is described as "splitting of driveway and new door".
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## Decision

1. The appeal is dismissed.

## Background and Main Issue

2. The Council have stated that prior approval was granted in January 2022 for the change of use of the appeal property from offices to 2 dwellings. The appeal scheme proposes amendments to the existing fire escape, a new door and new first floor windows on both side elevations. The Council consider that, subject to conditions, these proposals are acceptable. From the evidence before me and what I saw on my site visit I see no reason to disagree with this conclusion.
3. In addition, the proposal includes the creation of a new driveway and vehicular access onto Curzon Road. The main issue in the appeal is the effect of this on the character and appearance of the area, having particular regard to the likely long-term effect on nearby street trees.

## Reasons

4. The appeal site is located on the corner of Scarisbrick New Road and Curzon Road. The trees along both these roads are attractive features which make a positive contribution to the character and appearance of the area. In order to provide off-road parking for the dwelling that fronts onto Scarisbrick New Road, it is proposed to create a new vehicular access onto Curzon Road. This would be located between, and within close proximity to, 2 street trees. As such, the proposal would have the potential to impact on these trees and particularly their root protection areas. Any damage to these trees would have a detrimental impact on the street scene.
5. The proposal was not accompanied by an arboricultural report that assesses the potential impact of the proposed new vehicular access on the nearby trees. The appellant has suggested that the works required to create the access would be limited in nature. However, in the absence of any information establishing the root protection area for the trees and assessing the impact of the proposal on

- the trees, I am not satisfied that the work required to create the new vehicular access can be done without having a detrimental impact on the adjacent trees.
6. The appellant has pointed to the fact that there are other vehicular accesses to properties on this and other nearby roads which are located very close to street trees. Whilst this may be the case, I observed that these all appeared to be well established rather than recently created drives. Given this, these accesses may well pre-date the street trees, or at least would have been created when the trees were much younger and so their root protection areas were smaller. Moreover, I observed that whilst there are a number of new houses on Curzon Road which have vehicular accesses, none of these are located near street trees.
  7. Overall, I consider that, through its potential impact on the nearby street trees, the proposed vehicular access may adversely impact on the character and appearance of the area. As a result, it would conflict with Policies EQ2 and EQ9 of the Local Plan for Sefton (adopted April 2017) which, amongst other things, require that development proposals respond positively to the character and local distinctiveness of the surroundings and do not result in unacceptable loss of, or damage to, existing trees.
  8. For the reasons set out above, I conclude the appeal should be dismissed.

*Alison Partington*

INSPECTOR



# Appeal Decision

Site visit made on 10 April 2024

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 April 2024**

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**Appeal Ref: APP/M4320/W/23/3328625**

**201A Altway, Aintree, L10 6LB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Kieron Jamieson against the decision of Sefton Metropolitan Borough Council.
  - The application Ref is DC/2023/00540.
  - The development proposed is the change of use of ground floor from retail (E) to a bar/café with the provision of outdoor seating (Sui Generis).
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## Decision

1. The appeal is allowed and planning permission is granted for the change of use of ground floor from retail (E) to a bar/café with the provision of outdoor seating (Sui Generis) at 201A Altway, Aintree, L10 6LB in accordance with the terms of the application, Ref DC/2023/00540, subject to the conditions in the Annex A.

## Procedural Matter

2. I note the description of development given on the application form and the very detailed description on the appeal form. In the banner heading and my formal decision above, I have used the description of development used on the decision notice as it provides a more accurate and succinct description of the proposed development.

## Main Issue

3. The main issue in the appeal is the effect of the proposed development on the living conditions of nearby residents with particular regard to noise and disturbance.

## Reasons

4. The appeal relates to a vacant unit at one end of a small retail centre, on the corner of Altway and Stowe Avenue. The wider area is predominantly residential. The nearest residential property to the premises is No 1 Stowe Avenue whose gable end faces the rear of the unit, across a vehicular access. There are also properties on the other side of Altway as well as on the far side of the Stowe Avenue junction.
5. The retail centre contains a wide range of uses including a number of uses that open in the evening. At the other end of the centre is a public house with a large outside seating area, and a Conservative Club that I am told holds regular events is located nearby on Lancing Drive. As such, the shopping centre



- and other nearby commercial uses already create noise and activity during the evening.
6. Whilst I have not been supplied with any details, it is likely that the former use of the premises as a card shop means it would have operated mainly daytime hours. It is proposed to use the unit as a small-scale café and bar, with a small outside seating area at the front of the unit. It is proposed the use would be open during the evening as well as the day, although the appellant has indicated that the outside seating area would not be used for the purposes of eating / drinking beyond 5pm.
  7. The shopping centre has 3 parking areas, providing around 23 spaces and there is a separate area to the rear where staff can park. Although I observed that the customer parking areas were well used, there were always spaces available. Whilst only a snapshot in time, I consider that customers for the proposed use would generally use these parking areas rather than the surrounding streets. Moreover, although open longer hours, it is unlikely that a small-scale café/bar would attract significantly more car-borne customers than a retail use. As a consequence, I am satisfied that there would not be undue inconvenience or disturbance to local residents arising from parking associated with the proposal.
  8. Conditions can be used to control the opening hours of the café/bar as well as the hours the external seating area can be used. They can also be used to control the noise levels from any music played within the premises. Given this, and that there are other uses within the centre that already open until the same time as is proposed for this use, I envisage that any noise and disturbance resulting from the proposed use, and the arrival or departure of clientele from the premises would be minimal in comparison with, and indistinguishable from, that associated with the other uses in the centre.
  9. In addition, it is not proposed to cook food on the premises, and this can be controlled by condition. As such, there would be no particular odours associated with the proposal. Ensuring that waste from the use is appropriately stored and managed can also be controlled by a condition. Given this, and the nature of the use, I see no reason why it should cause an increase in litter in the area.
  10. The unit is set back slightly from the immediately adjacent row of shops and the external seating area would extend no further forward than these units. The pavement at this point is of a sufficient width to ensure that the external seating area would not cause an obstruction to other users. Whilst people may choose to stand elsewhere to smoke, this would not necessarily block the pavement and would be no different from customers of other premises who may stand outside the unit to do the same. Nor is there any substantive evidence to show that the use of this area by smokers would pose a health risk to others.
  11. It is suggested that the use has the potential to increase anti-social behaviour. Although there is no substantive evidence that this would be the case, should it occur, matters can be addressed using other legislation. It has also been argued that there is no need for such a use as there are other such uses in the area. Whilst there are other drinking establishments, I saw no other cafes in the vicinity, and in any case, it is not the role of the planning system to prevent competition. Whether the proposal would be financially viable is a matter for

the owner and is not a reason that justifies refusing planning permission. In addition, there is no persuasive evidence that the proposal would lead to a loss of property values.

12. All in all, I consider that the proposal would not unacceptably harm the living conditions of nearby residents with particular regard to noise and disturbance. Accordingly, I find no conflict with Policies HC3, EQ2 and EQ10(1)a of the Sefton Local Plan (adopted April 2017) which require that, amongst other things, developments should not cause significant harm to the living conditions of neighbouring residents. Nor would it be contrary to paragraph 135f of the National Planning Policy Framework that require that developments should provide a high standard of amenity for existing and future users.

### **Conclusion and Conditions**

13. For the reasons set out above I conclude the appeal should be allowed.
14. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans as this provides certainty. The other conditions are all necessary in order to protect the living conditions of nearby residents. However, I have changed the hours the outside seating area is allowed to be used so that it accords with the appellant's stated intentions and I have combined suggested condition 2 and 3 to avoid repetition.

*Alison Partington*

INSPECTOR

## **Annex A**

### **Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted, including the outside seating area, shall be carried out in accordance with the following approved plans: Site Location Plan; Block / Site Plan; Existing Ground Floor Plan Drawing Number OFS-201AA-PP-CI-04-2003-001 Rev A; Proposed Ground Floor Plan Drawing Number OFS-201AA-PP-CI-04-2003-002 Rev A; and Proposed Site Layout Plan Drawing Number OFS-201AA-PP-CI-04-2003-003 Rev A.
- 3) The use hereby permitted shall only take place between the following hours: 08:00 to 23:00.
- 4) The outdoor seating area shall not be used, and shall be removed from the external pavement area, outside the hours of 08:00 to 17:00.
- 5) No live, amplified or recorded music or entertainment shall take place within the premises above a level of LAeq 65dB, 10 minutes, measured 1 metre from any instrument, speaker or wall located within the premises.
- 6) No live, amplified or recorded music, or live entertainment shall take place outside of the premises.
- 7) No cooking, with the exception of warming or reheating, shall take place on the premises without appropriate extraction facilities first being installed. Prior to the installation of any such plant or equipment a written scheme of noise control, and detail of control of odours, for the proposed plant and equipment shall be submitted to, and approved in writing by, the local planning authority. The approved scheme shall thereafter be operated and maintained in accordance with the approved details for as long as the use continues.
- 8) Prior to the change of use of the building hereby permitted, a waste management plan shall be submitted to, and approved in writing by, the local planning authority.



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# Appeal Decision

Site visit made on 6 April 2024

**by Elaine Benson BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 April 2024**

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**Appeal Ref: APP/M4320/D/23/3333711**

**21a Ryeground Lane, Formby, Sefton L37 7EG**

- 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 M Goulbourne against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2023/01175, dated 5 July 2023, was refused by notice dated 4 September 2023.
  - The development proposed is 'amendment to Approved Application (DC/2022/01593) from pitched roof dormers to flat roof dormers on the front elevation'.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. This is the effect of the appeal proposal on the character and appearance of the host property and the surrounding area.

## Reasons

3. The two appeal dormers have already been constructed on the front elevation of the appeal property. The principle of front dormer extensions and their position on the roof were approved in a recent planning permission ref DC/2022/01593. The flat roof design of the dormers is consistent with the contemporary architectural treatment of the host property and to my mind is an acceptable approach in an area of diverse house designs where dormers are a characteristic design feature.
4. However, the dormers are overly large in proportion to the size and scale of the front roof plane and the ground floor windows. Due to their size and the extent of their projection from the roof, the dormers appear dominant, out of proportion with the scale of the property as a whole and are incongruous. Furthermore, whilst the proposal complies with certain guidance in the Council's SPD House Extensions (SPD), the proposal conflicts with its paragraph 6.4 in this regard.
5. The appeal property is in a prominent location at the bend of the road and at a point where the designs of the adjacent properties transition. Notwithstanding its set back from the road frontage, the building is conspicuous due to the strident and discordant appearance of the dormers. The development harms the character and appearance of its surroundings.

6. I conclude that the dormer development results in a top-heavy roof which unbalances the overall appearance of the building. The proposal does not respond positively to the character and appearance of the surrounding area and consequently fails to comply with Policies EQ2 and HC4 of the Local Plan and Policy ESD2 of the Formby and Little Altcar Neighbourhood Plan which, in summary, seek to achieve high quality design that makes a positive contribution to the surrounding area. As already indicated, the scheme conflicts with similar design guidance in the SPD relating to roof alterations. The proposal is also counter to the design guidance in the National Planning Policy Framework which states that development that is not well designed should be refused.
7. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

*Elaine Benson*

INSPECTOR



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# Appeal Decision

Site visit made on 23 March 2024

**by Elaine Benson BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 April 2024**

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**Appeal Ref: APP/M4320/D/24/3337183**

**52 Edge Lane, Thornton, Sefton, Merseyside L23 9XF**

- 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 Mrs Linda Byrne against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2023/01520, dated 16 August 2023, was refused by notice dated 1st November 2023.
  - The development proposed is to install a drop kerb in order to drive onto the driveway at the front of the house.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. This is the effect of the appeal proposal on highway safety.

## Reasons

3. The appeal property, 52 Edge Lane (No 52), stands at the corner of Edge Lane and Larchfield Road. It is proposed to construct a new vehicle crossing from its frontage onto a slip road off Edge Lane, a classified road. The proposal would enable the appellant to use the frontage of No 52 for parking. It is the only property without direct vehicle access to the slip road which provides access to Nos 22-52 Edge Lane and parking spaces along most of its length. The proposed dog-leg access would cross a large, grassed verge which lies between the junction of Edge Lane with Larchfield Road and the access to the slip road.
4. Edge Lane is a main arterial route out of Thornton and a route to and from Liverpool and Southport. Consequently, traffic flows along the road are significant throughout the week. The southern access to the slip road is about 5m from the junction of Larchfield Road with Edge Lane. The proposed vehicle crossing would be within the bellmouth of its entrance. The speed limit reduces from 30mph on Edge Lane to 20mph in the slip road.
5. There are multiple junctions in the area around the appeal site. Whilst motorists travelling along Edge Lane might expect to see vehicles using the slip road, the addition of a further crossing, particularly at the angle proposed, is in my judgement likely to cause confusion to drivers. Furthermore, vehicles entering or exiting the appellant's driveway would not have safe manoeuvrability due to the limited distance from the grassed verge and the

proximity to the junction, even if the vehicle movements were contained within the slip road. In combination, these factors would result in conditions that would be detrimental to highway safety. Furthermore, although other nearby houses have direct access to it, the original design of the slip road did not make provision for a vehicle crossing to No 52. Instead, its garage and off-street parking to the rear of the property are accessed from Larchfield Road. This factor appears to me to further demonstrate that an additional access in the proposed location is unacceptable in highway design terms.

6. The evidence indicates that the proposal would increase the likelihood of vehicles reversing onto Edge Lane close to the two other junctions (Edge Lane/slip road and Edge Lane/Larchfield Road). This would be somewhat unexpected by other motorists travelling along Edge Lane, even where there is good visibility. The appellant states that she would not reverse onto Edge Lane and there is no reason to doubt this. However, this could not be enforced and there would be no controls over how future occupiers of the property might use the vehicle crossing. Reversing manoeuvres in this location could result in vehicle collisions.
7. In the area around the appeal site, many properties fronting Edge Lane have an access directly off the classified road. They present a risk of vehicles reversing onto Edge Lane. Nonetheless, the history of these works has not been provided and in any event, each application for a vehicle crossing must be considered on its own merits. It is also acknowledged that the occupiers of No 50 Edge Lane may have used their driveway access onto the slip road for many years without incident, thus suggesting that motorists are not confused by the existence of a vehicle crossing there. However, its location is different to that of the proposed vehicle crossing.
8. As detailed above, No 52 has existing off-street parking provision. It has not been convincingly demonstrated why that area could not be altered to provide a sufficiently sized parking area, with an electric vehicle charging point if required. A safe, level and private off-street pedestrian access to the house through the garden could also be provided which would overcome the personal concerns identified by the appellant. This could also address the problems caused by flooding of the road that she has detailed. But in any event, personal circumstances cannot outweigh the wider public highway safety concerns that are likely to arise because of the appeal proposal.
9. The appellant does not consider that the proposal encroaches onto or affects a junction and/or creates an unacceptable risk of conflict between highway users. However, there is no technical or professional evidence to support these assertions. Anecdotal evidence of parking manoeuvres performed on the service road without incident does not outweigh technical evidence. The more convincing evidence with this appeal is the assessment provided by the Highway Authority.
10. It is unfortunate that advice about the construction of a cross-over appears to have been inconsistent with the technical consultee advice provided for the planning application. Nonetheless, the appellant was advised that planning permission was required for the works and each planning application is considered on its own merits, based on the site-specific circumstances.

11. I am not convinced by the Council's evidence that the loss of an on-street parking space in the slip road would be sufficient justification to dismiss the proposal. However, I conclude overall that a safe vehicle access to the appeal site could not be achieved. The proposed crossing would encroach onto and affect a junction, leading to an unacceptable risk of conflict between highway users. Consequently, the proposed development does not comply with Policies EQ2 (2a) and EQ3 (f) of the adopted Sefton Local Plan and the highway safety requirements of the National Planning Policy Framework.
12. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

*Elaine Benson*

INSPECTOR