

**Report of:** CHIEF PLANNING OFFICER      Derek McKenzie

**Report to:** PLANNING COMMITTEE      **Date of Meeting:** 18th September 2024

**Subject:** [DC/2023/02182](#)  
[Land To The Rear Of 19 College Avenue Formby Liverpool L37 3JL](#)

**Proposal:** Erection of a three storey dwellinghouse with detached single storey garage

**Applicant:** Ms Danielle Brighthouse      **Agent:** Mrs Ruth Martinez  
Revival Architecture Ltd.

**Ward:** Harington Ward      **Type:** Full Application

**Reason for Committee Determination:** Called-in by Councillor Richards

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## Summary

This application seeks approval for the erection of a detached dwelling on a plot severed from the rear of Number 19 College Avenue within a Primarily Residential Area of Formby. The site benefits from an extant approval for a similar development, reference DC/2022/01189 granted 8<sup>th</sup> June 2023, which carries significant weight as a realistic fallback position.

The main issues to be considered are the differences between the scheme as approved and as now proposed. It is considered that the changes do not give rise to any unacceptable impacts on the living conditions of neighbouring properties, over and above those previously found to be acceptable, and is acceptable in all other regards.

The proposal is therefore recommended for approval with conditions.

## Recommendation: Approve with Conditions

**Case Officer**                      Neil Mackie

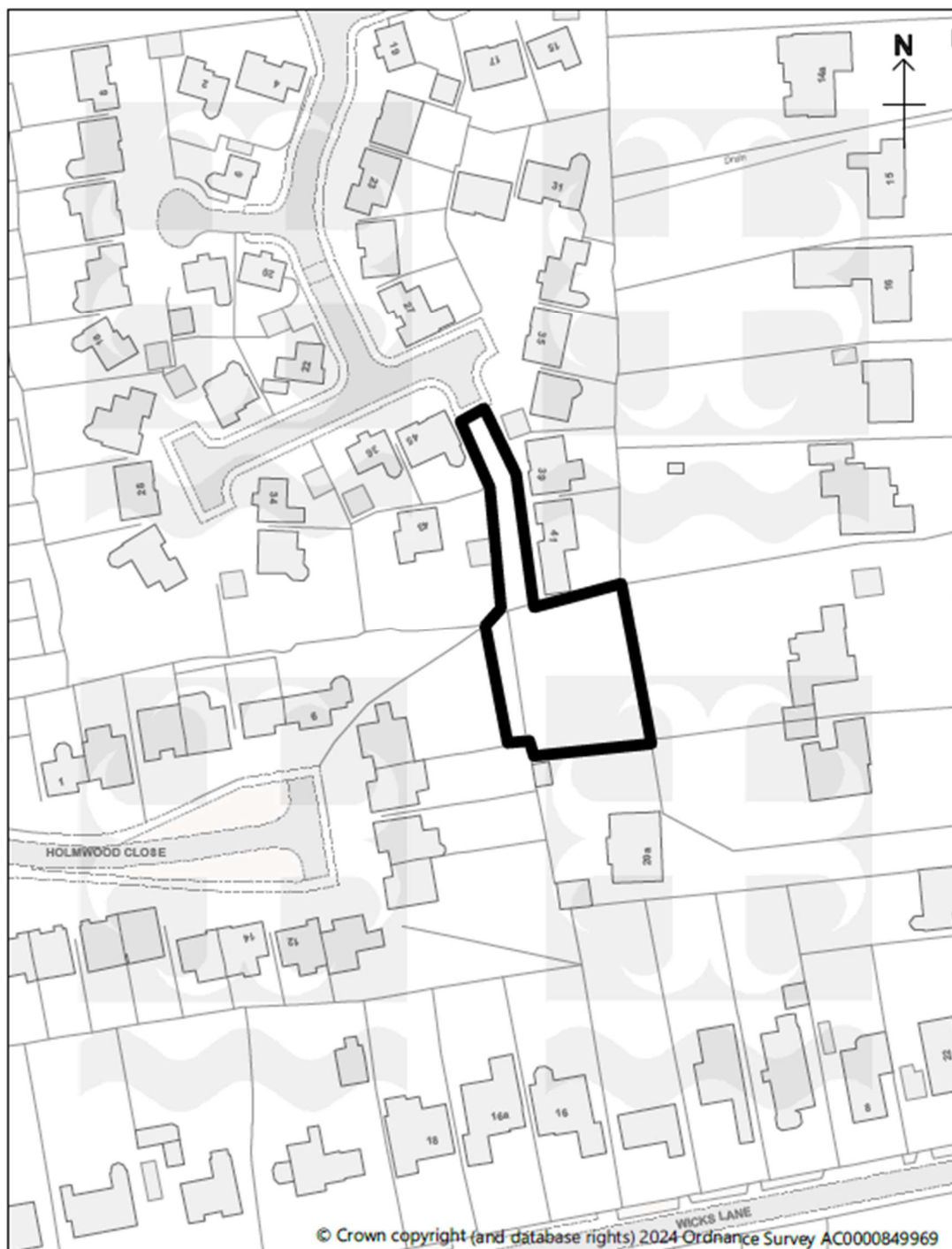
**Email**                                      [planning.department@sefton.gov.uk](mailto:planning.department@sefton.gov.uk)

**Telephone**                              0345 140 0845

Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=S5XIGMNWJ0Z00>

## Site Location Plan



## The Site

The site comprises a plot of land that has been severed from the rear of Number 19 College Avenue within a Primarily Residential Area of Formby. To the north and west of the site are two-storey residential properties on Holmwood Close and The Evergreens, with a two-storey property to the south (Number 20a College Avenue). To the southeast of the site is a recently protected tree.

## History

DC/2022/01189 - Erection of a detached two storey (plus attic floor) dwellinghouse. Approved 8<sup>th</sup> June 2023.

N/1998/0222 - Erection of 1 detached two-storey dwellinghouse to form part of the former Holmwood School residential development site at Barkfield Lane. Approved 4th June 1998.

## Consultations

### Highways Manager

No objection

### Environmental Health Manager

No objection

### Tree Officer

No objection

### Flooding and Drainage

No objection

### United Utilities

No objection

### Merseyside Fire and Rescue

A representation has been received from the Merseyside Fire and Rescue Service that does not object to the proposal.

### Formby Parish Council

Object to the proposal. Considers that the density of the property will have a very dominating aspect to the surrounding properties of a smaller height and will be less than the minimum distance required from neighbouring properties contrary to density and design policies within the Neighbourhood and Local Plans. Also raises concerns about the impacts of the use of the access

road, the disturbance arising from the construction of the dwelling, mitigation for loss of ecology on the site as well as seeking replacement tree planting.

## Neighbour Representations

### Councillors

The application has been called-in by Councillor Richards who, in the call-in proforma, stated her request for this application to be refused as the proposal is harmful to residential amenity, harmful to highway safety, harmful to ecology, is of a poor design quality and will have an impact on the quality of life of future occupants.

### Neighbours

Objections received from properties on College Avenue and The Evergreens, Formby that raise the following matter:

#### Procedure

- Not all properties with interests within the red line have received the appropriate notice.
- No permission will be given by land owners for access or for any works associated with the development.
- Incorrect to describe the site as being the rear of 19 College Avenue.

#### Living Conditions

- Proposal is too close to neighbouring habitable room windows
- Proposal will overlook neighbouring windows and gardens
- Movement of vehicles, delivery vehicles, other traffic to the property will cause harm through disturbance
- Proposal will result in a loss of light to neighbouring habitable room windows

#### Character

- Scale of development incongruous to the prevailing form of development to The Evergreens

#### Trees and Ecology

- Insufficient regard shown to all protected trees within the area
- Tree Protection areas will be impacted by siting of construction buildings
- Application form states there are no trees on the development site
- Detrimental impact on red squirrels who use/live on the site
- Detrimental impact on hedgehogs, bats and a variety of wild birds

### Vehicle Access & Parking

- Insufficient access to the site for construction and future occupation
- Access from The Evergreens will damage gardens and boundaries along the route
- Insufficient onsite parking, which will add pressure to The Evergreens

### Other Matters

- No electricity, gas or water is available to the site as a covenant to the site, granted when The Evergreens was built, has lapsed

## **Policy Context**

The application site lies within an area designated as Primarily Residential in the Sefton Local Plan which was adopted by the Council in April 2017. The Formby and Little Altcar Neighbourhood Plan was 'made' (i.e. adopted) on 21st November 2019 and carries full weight in decision making.

## **Assessment of the Proposal**

### **1. Introduction**

- 1.1 This application is seeking approval for the erection of a three-storey dwellinghouse with a detached single-storey garage and associated landscaping and car parking areas on a parcel of land severed from 19 College Avenue, with vehicle access to be gained from The Evergreens, within a Primarily Residential Area of Formby.
- 1.2 Of particular importance to this application, is an earlier extant permission granted on 8th June 2023 for a similar scheme (reference DC/2022/01189) that provides for a significant and likely fallback position. The report to 7th June 2023 Planning Committee is attached to this report.
- 1.3 In having regard to the significant weight attached to the extant permission it is therefore considered that the assessment for this application shall be focused on the material differences and subsequent impacts between the dwelling as approved and the dwelling as proposed as well as considering any material changes in policy or other considerations since that decision was made.
- 1.4 The proposed dwelling differs most notably from that as approved in respect of the location of the detached garage as well as the treatment of the front elevation. For clarity excerpts of the approved and now proposed site plans and elevations are set out below.

Approved Site Plan



Proposed Site Plan



Approved Elevations



Proposed Elevations



## 2. Impact on Neighbouring Living Conditions

- 2.1 The proposal will position the main bulk of the dwelling closer to the eastern boundary with the rear garden of Number 19 College Avenue than as previously approved and as a consequence will move it further away from the boundary with the rear garden of Number 7 Holmwood Close.
- 2.2 The repositioning of the dwelling is likely to increase the overshadowing of the rear garden to Number 19 College Avenue, particularly to the rearmost part of this neighbour's garden.

However, this neighbouring property has a garden depth of over 30m with aerial photography showing formally laid out areas being positioned close to that dwelling. As such it is not considered that the overshadowing will result in unacceptable impacts to the living conditions of current or future occupiers of this dwellinghouse. Similarly, while the proposed dwelling will be visible from Number 19 it is considered that the depth of their garden plus the separation distance from habitable room windows, over 25m, would ensure that the proposal would not cause unacceptable impacts through introducing an overbearing or over dominant development.

- 2.3 The impact to Number 20a College Avenue, an existing backland dwellinghouse to the south, will not be materially different than that as approved given the maintained distances from habitable room windows and gardens.
- 2.4 To Number 41 The Evergreens the impact will be slightly different than that as approved given the positioning of the dwelling further to the east with more direct views from the eastern wing of the dwelling towards the rear garden of this neighbouring property (as seen in the excerpts of the site plans above). While the separation distance from the bay windows to the garden will meet the Council's guidelines, thereby not resulting in unacceptable impacts on privacy and overlooking, the building itself will be more apparent and obvious to current and future occupiers of Number 41. However, such a change will not be so great as to result in unacceptable impacts to the living conditions of Number 41.
- 2.5 As Members may note from the previous Committee Report there is a rooflight window to the side elevation of Number 41 that is set low within the roof slope and provides light and outlook to a habitable room. The impact on that window was found to be acceptable for the extant approval and for this amended proposed the direct interface distance between first-floor windows will now slightly increase as a result of the amended siting of the dwelling, as the eastern bay window with first-floor windows serving a cinema room will be moved away from any direct line from this rooflight window. It is therefore considered that the impact of the proposed dwelling on this neighbouring window remains acceptable.
- 2.6 Objectors have raised concerns as to the detrimental impacts arising from construction of the dwelling but it is evident that the applicant has had regard to this and the submitted Construction and Environmental Management Plan (CEMP) contains a number of measures to mitigate disturbance during the construction of the dwelling. For example, it is stated that no construction work, including demolition and deliveries to and from the site except between the hours:
  - 08:00 to 18:00 Weekdays
  - 08:30 to 13:00 Saturdays
  - No work shall take place on Sundays or on Public Holidays

- 2.7 The applicant, within the CEMP, also states that should the circumstances dictate that the contractor needs to work outside the above hours, they will seek written approval from the Council prior to doing so.
- 2.8 In addition to the above that same document then specifies that deliveries via rigid vehicles will be limited to between 10:00 – 14:00 as well as stating that a letter will be given to neighbours prior to work commencing giving anticipated start and finish dates of the work and details for contacts if any issues arise.

### **3. Impact on the Character of the Area**

- 3.1 The description of development differs from that as approved, three-storey versus two-storey with accommodation in the attic. The Formby & Little Altcar Neighbourhood Plan seeks to prevent development above two and a half storeys, unless it can be justified. While the description states three storeys it is evident that it is, in effect, two and a half storeys with similar massing and proportions to that previously found to be acceptable. The 'third storey' is the use of the loft space, which is similar to that proposed under the original permission.
- 3.2 The amendments to the site layout and the alterations to the elevations will not give rise to a materially different form of development than that previously considered to be acceptable. The main alteration, removing the central glazed gable and replacing with separate windows to the ground and first-floor, echoes traditional fenestration seen to neighbouring properties and as such is appropriate in this context.

### **4. Other Matters**

#### Trees

- 4.1 As evident from the proposed site plan, the dwelling will be closer to a protected tree, marked as T9 on the plan, than that as previously approved. The Council's Tree Officer sought further information to allow the impacts of constructing the dwelling on that particular tree to be considered in full. The amended arboricultural method statement has been reviewed by the Tree Officer who considers that the use of pile beam foundations within the root protection area of T9 will prevent/reduce the amount of damage to the roots of that tree and it will not cause any lasting harm.
- 4.2 While not objecting to the application the tree officer did highlight his concern over future pressures for pruning of T9 as the canopy of the tree will be over part of the dwelling and will cover a large part of the garden. Since the application as submitted will not cause unacceptable impacts particularly to the protected tree then it is considered the proposal is acceptable on this point.



### Ecology

- 4.3 On matters of ecology, the applicant has had regard to ecology conditions attached to the extant approval and as such has submitted an "Ecological Conditions Report" dated July 2023 to provide details as to how pre-commencement checks for red squirrels, reasonable avoidance measures to reduce the risk of construction to small mammals and enhanced biodiversity (through bat boxes, bird boxes, bee bricks and hedgehog highways) will be undertaken and/or provided. The measures are considered to be acceptable and conditions could be attached to any approval securing this.

### Highways

- 4.4 The Council's Highways Manager has raised no objection to the proposal, subject to conditions in respect of securing access prior to occupation and the reconstruction of the footway at the turning head of The Evergreens.
- 4.5 In respect of the use of the access from The Evergreens to the site, for construction and subsequent use by occupiers of the proposed dwelling, a site access plan has been shown from The Evergreens to the application site. As seen this involves land outside of the control of the applicant, including landscaped areas to neighbours, which is why notice has been served on other interested parties and Certificate B signed on the application form. No objection to this route has been raised by the Highway's Manager and whether owners grant access over this land is a civil matter.

### Procedure

- 4.6 The matter of land ownership and serving of notices was raised with the agent who provided copies of notices served via post to neighbouring properties and a Management Company. In the absence of any further competing information it is held that all parties that hold an interest in the land within the red line have been served appropriate notices.

## **5. Conclusion**

- 5.1 In view of the above it is considered that this application complies with the aims and objectives of the Formby & Little Altcar Neighbourhood Plan, the Local Plan and all other material considerations. The proposal is therefore recommended for approval with the conditions that follow.

## **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 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.

## Recommendation - Approve with Conditions

### Time Limit for Commencement

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: In order that the development is commenced in a timely manner, as set out in Section 91 of the Town and Country Planning Act 1990 (as amended).

### Approved Plans

- 2) The development shall be carried out in accordance with the following approved plans and documents:

#### Plans

1719-RA-XX-XX-DR-A-0000 Rev P01 'Location Plan'

1719-RA-XX-XX-DR-A-0001 Rev P01 'Construction and Environmental Management Plan (CEMP)'

1719-RA-XX-XX-DR-A-0002 'Proposed Site Access'

1719-RA-XX-XX-DR-A-0100 Rev P03 'Existing and Proposed Site Plans'

1719-RA-XX-XX-DR-A-0110 Rev P01 'Proposed Plans'

1719-RA-XX-XX-DR-A-0200 Rev P01 'Proposed Elevations'

C2C-XX-XX-DR-C 500 Rev P02 'Proposed Drainage Layout'

C2C-XX-XX-DR-C 501 Rev P01 'Typical Drainage Details (Sheet 1 of 2)'

C2C-XX-XX-DR-C 501 Rev P01 'Typical Drainage Details (Sheet 2 of 2)'

#### Documents

Tree Survey Assessment, ref 220653\_22/A1, June 2022, Indigo Surveys Ltd

Arboricultural Method Statement, ref 220653\_23/A4\_AMS Rev B, July 2024, Indigo Surveys Ltd

Preliminary Ecological Appraisal, October 2022, Tyrer Ecological Consultants Ltd

Ecological Conditions Report, July 2023, Tyrer Ecological Consultants Ltd

Reason: For the avoidance of doubt.

#### **Before the Development is Commenced**

- 3) a) Given the known presence of red squirrel within this area, as a precaution a pre-commencement check of any trees or shrubs must be undertaken prior to their removal.
- b) A report confirming the absence of dreys must be submitted to and approved by the Local Planning Authority prior to any shrub or tree removal.

Reason: In the interests of ecology.

#### **During Building Works**

- 4) The approved Reasonable Avoidance Measures (RAMs) for Hedgehogs and Small Mammal method statement, contained within the approved Ecological Conditions Report, must be adhered to during construction of the dwelling.

Reason: In the interests of ecology.

- 5) Construction of the dwelling and associated works shall be undertaken in accordance with the approved Construction and Environmental Management Plan, reference 1719-RA-XX-XX-DR-A-0001.

Reason: To protect the living conditions of neighbouring properties and to ensure the safety of highway users during the construction of the development.

#### **Before the Development is Occupied**

- 6) The dwelling shall not be occupied until a detailed scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include replacement planting for those trees to be lost at least at a 1:1 basis (minimum heavy standard as planted) and any trees must be small seed-bearing species which encourage red squirrels and discourage grey squirrels.

Reason: To ensure sufficient living conditions for future occupiers and to enhance biodiversity.

- 7) a) The dwelling shall not be occupied until all planting, seeding or turfing comprised in the approved details of the scheme of landscaping shall be carried out for that particular property.

b) any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure sufficient living conditions for future occupiers and to enhance biodiversity.

8) a) The dwelling hereby approved shall not be occupied until the Biodiversity Enhancement Plan, contained within the approved Ecological Conditions Report, is implemented in full

b) The installed biodiversity enhancement measures shall then be retained and maintained as such thereafter.

Reason: In the interests of biodiversity.

9) The development hereby permitted shall be carried out only in accordance with the approved drainage scheme, which must be installed prior to the first occupation of the dwellinghouse.

Reason: To ensure satisfactory drainage facilities are provided to serve the site in accordance with the National Planning Policy Framework, policy F1 of the Formby and Little Altcar Neighbourhood Plan and Policy EQ8 of the Sefton Local Plan.

10) a) The development shall not be occupied until a detailed scheme of highway works together with a programme for their completion has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the reconstruction of the footway at the turning head of The Evergreens to strengthen it to sustain vehicular impacts and connecting the adopted highway to the proposed private site access.

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

Reason: To ensure the safety of highway users.

#### **Ongoing Condition**

11) a) No tree felling, scrub clearance, hedgerow removal, vegetation management, ground clearance and/or building works is to take place during the period 1 March to 31 August inclusive.

b) If it is necessary to undertake works during the bird breeding season then all buildings, trees, scrub, hedgerows and vegetation are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present.

c) If present, details of how they will be protected are required to be submitted for approval.

d) If necessary the details approved under (c) above shall be implemented.

Reason: In the interests of ecology.

### **Informatives**

- 1) The applicant is advised that the proposal will require the formal allocation of addresses. Contact the Development and Support team on 0151 934 4195 or E-Mail [snn@sefton.gov.uk](mailto:snn@sefton.gov.uk) to apply for a street name/property number.
- 2) The applicant is advised that all works to the adopted highway must be carried out by a Council approved contractor at the applicant's expense. Please contact the Highways Development and Design Team at [HDD.Enquiries@sefton.gov.uk](mailto:HDD.Enquiries@sefton.gov.uk) for further information.
- 3) An agreement under section 278 of the Highways Act 1980 will be required for all highway works to ensure the works are satisfactorily completed. All costs associated with the highway works/alterations under the s278 agreement will be borne by the applicant. The applicant must therefore contact the Sefton Highways Maintenance Team regarding the highway works via email: [highway.enquiries@sefton.gov.uk](mailto:highway.enquiries@sefton.gov.uk) following the grant of planning permission.

**Appendix - Previous Committee report for DC/2022/01189**

**Report of:** CHIEF PLANNING OFFICER Derek McKenzie

**Report to:** PLANNING COMMITTEE **Date of Meeting:** 7<sup>th</sup> June 2023

**Subject:** [DC/2022/01189 – Land to the rear of 19 College Avenue, Formby, Liverpool, L37 3JL](#)

**Proposal:** Erection of a detached two storey (plus attic floor) dwellinghouse

**Applicant:** Mr. Ian Morris **Agent:** Mr. David Bennet, Keith David Partnership Architects

**Ward:** Harington **Type:** Full Application

**Reason for Committee Determination:** Deferred from 15<sup>th</sup> March 2023 due to insufficient information to establish impact on neighbouring window.

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## Summary

This application seeks approval for the erection of a detached dwelling on a plot that has been severed from the rear of Number 19 College Avenue within a Primarily Residential Area of Formby. It is considered that the principle of development and the impact on the character of the area is acceptable, that there will be no unacceptable impacts on the living conditions of neighbouring properties or on future occupiers of the proposal and that sufficient access can be provided. The proposal is therefore recommended for approval with conditions.

## Recommendation: Approval with Conditions

**Case Officer** Neil Mackie  
**Email** [planning.department@sefton.gov.uk](mailto:planning.department@sefton.gov.uk)  
**Telephone** 0345 140 0845

Application documents and plans are available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R9Z5TYNWHRY00>

## Site Location Plan



Sefton Council



Reference: DC/2022/01189

Date: 05/12/2022

Scale: 1:1250

Created by: MB

DC/2022/01189

Land to the rear of 19 College Avenue

Formby L37 3JL



## Assessment of the Proposal

This application was originally deferred from 15<sup>th</sup> March 2023 Planning Committee for the following reason: 'That consideration of the application be deferred to enable the Chief Planning Officer to investigate and clarify the position regarding a facing study window on the adjoining property and distance between that window and the front of proposed dwelling.' The full report to 15<sup>th</sup> March 2023 Planning Committee is attached as an appendix.

As was made clear at the Planning Committee meeting, an assessment was made against a window to the side of the main dwelling at Number 41 The Evergreens that was **not** the window that objectors had raised issues against. The window in question is a rooflight to the side slope above the garage. This had been subject of a conversion under permitted development rights that resulted in roofspace accommodation.

This room has been laid out with a desk at the base of this rooflight with views out towards the application site, along with a bed positioned further within the room. This arrangement clearly demonstrates that this is a habitable room but this was not apparent when the application was originally assessed. The rooflight in question is also positioned relatively low in respect of the height of the room, with the lower sill being just above the height of the desk. Such a position ensures that this provides for a direct outlook over the application site and as a result would also be directly visible from any new residential development to this site.

The distance between this rooflight and facing habitable room windows to the new dwelling will be 11.7m, as objectors asserted, which is below the 21m distance (measured from window to window) recommended within the Council's guidance. The objectors argue that this shortfall would result in unacceptable impacts on their living conditions.

However, in this case this arrangement is not considered to give rise to unacceptable impacts to the living conditions of this neighbouring property as a whole for the following reasons:

- The overall living conditions of Number 41 will not be significantly harmed by virtue of the impacts on loss of privacy to this single room, given other habitable rooms within the dwelling will not suffer from unacceptable impacts from overlooking and subsequent loss of privacy.
- The occupiers of Number 41 have chosen to direct views over land which they do not control. If this window were to be proposed under the current permitted development rules, it would be required to be obscurely glazed and non-opening. The fact that it already exists as 'permitted development' does not mean it should constrain the development of the neighbouring plot of land.
- There is a degree of screening to/from this window from existing planting, which is to remain, which therefore lessens the potential impacts arising from overlooking/loss of privacy.

- There is a second rooflight to the rear (east facing) elevation of this roofspace accommodation that has clear views over the rear garden of Number 41 and is free from any overlooking. The current occupiers of No 41 could install blinds or other material to the rooflight in question in order to protect their privacy and they would still have a room with an acceptable outlook from at least one window.

To conclude, the distance between the window of the adjoining property and the habitable room windows of the proposed dwelling is not considered to give rise to unacceptable impacts to the living conditions of the neighbouring property at No 41, The Evergreens. The previous recommendation to approve the application subject to conditions still stands.

## Appendix 1 – Report to 15<sup>th</sup> March 2023 Planning Committee

**Report of:** CHIEF PLANNING OFFICER Derek McKenzie

**Report to:** PLANNING COMMITTEE **Date of Meeting:** 15th March 2023

**Subject:** [DC/2022/01189 – Land to the rear of 19 College Avenue, Formby, Liverpool, L37 3JL](#)

**Proposal:** Erection of a detached two storey (plus attic floor) dwellinghouse

**Applicant:** Mr. Ian Morris **Agent:** Mr. David Bennet, Keith David Partnership Architects

**Ward:** Harington **Type:** Full Application

**Reason for Committee Determination:** Petition objecting to the application endorsed by Councillor Irving (who also called-in the application)

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### Summary

This application seeks approval for the erection of a detached dwelling on a plot that has been severed from the rear of Number 19 College Avenue within a Primarily Residential Area of Formby. It is considered that the principle of development and the impact on the character of the area is acceptable, that there will be no unacceptable impacts on the living conditions of neighbouring properties or on future occupiers of the proposal and that sufficient access can be provided. The proposal is therefore recommended for approval with conditions.

### Recommendation: Approval with Conditions

**Case Officer** Neil Mackie  
**Email** [planning.department@sefton.gov.uk](mailto:planning.department@sefton.gov.uk)  
**Telephone** 0345 140 0845

Application documents and plans are available at:

<http://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=R9Z5TYNWHRY00>

## The Site

The site comprises a plot of land that has been severed from the rear of Number 19 College Avenue within a Primarily Residential Area of Formby. To the north and west of the site are two-storey residential properties on Holmwood Close and The Evergreens, with a two-storey property to the south (Number 20a College Avenue). Bordering the site to the north is a sycamore protected by Tree Preservation Order 109.

## History

N/1998/0222 - Erection of 1 detached two-storey dwellinghouse to form part of the former Holmwood School residential development site at Barkfield Lane. Approved 4th June 1998.

## Consultations

**Highways Manager** - No objection as there are no adverse highway safety implications. Note that the access to The Evergreens is over a private access road and that it has not been indicated that the applicant has right of access over this or that consent of the owner(s) has been granted for its use.

**Environmental Health Manager** - No objection subject to conditions securing a Construction Environmental Management Plan (due to the proximity of neighbouring properties) and seeking details for any piling or ground-compaction.

**Flooding & Drainage Manager** - No objection.

**Network Rail** - No objection.

**Formby Parish Council** - No comments made.

**Little Altcar Parish Council** - No comments made.

**Merseyside Fire & Rescue Service** - Reference made for need to comply with Approved Document B5 of the Building Regulations and s55 of the County of Merseyside Act 1980.

## Neighbour Representations

A petition objecting to the proposal with 25 signatories has been endorsed by Councillor Irving. The petition objects to the application for the following reasons:

- The proposal is inconsistent with the Local Plan in respect of backland development and infringes on the Neighbourhood Plan
- The density of the development will have a very dominating aspect on the surrounding properties, contrary to policy
- The proposal will be a three-storey house contrary to policy

- The dwelling will cause significant detriment to the landscape and change the visual character and street pattern of the area, as it would not represent the character and distinctiveness of its surroundings nor add to the overall quality of the area
- The proposal will have a severe impact on the privacy of neighbouring homes, particularly to a side window serving a habitable room window at No 41 The Evergreens
- The building size is excessive for the plot
- The proposed access is shown to be wider on the plans than it is in reality, running across third party properties
- Construction traffic will lead to problems due to the site location and access
- The proposal will result in a loss of trees, and interfere with those to neighbouring properties
- Query the findings of the preliminary ecological appraisal as based on anecdotal evidence the site has been well used by red squirrel, hedgehogs and birds for over 25 years.

Individual objections have been received from properties in The Evergreens and College Avenue. Issues raised by objectors relate to:

- The proposal by virtue of its size and proximity to boundaries, along with associated traffic and vehicle related noise will have a severe impact on the privacy and enjoyment of neighbouring homes
- The building size is excessive for the plot, being in excess of 30% of the plot size
- The building will be too large in relation to existing properties on The Evergreens, the road from which the proposal will gain its access
- The proposal is for a three-storey dwelling and not two-storey as described
- The proposal will overlook neighbouring rear gardens (9.3m distance to garden of No 41 The Evergreens) and no more than 12m from a habitable room window to the side of No 41
- The permissive access driveway has been incorrectly interpreted within the application documents and is narrower than shown
- There is insufficient space for visitor parking within the site
- There will be insufficient access for construction traffic without trespass or disruption to Nos 37-45 The Evergreens
- Concerns regarding access by emergency vehicles, particularly fire appliances
- There is no access to the shared sewers and stated that previous agreements may have lapsed
- Concerns about impacts on trees
- The use of piling to protect trees would not be appropriate in this residential location.
- Concerns about impact on ecology
- Concerns regarding future use of building as flats

*Queries were also made regarding the given address of the site, but the absence of any separate address for this plot of land within the Local Land Property Gazetteer meant that 'Land to the rear of 19 College Avenue' was as accurate as could be.*

Councillor Irving has called this application in to be determined by Planning Committee.

Councillor Irving also submitted objections to the proposal on the basis that even with amendments the proposal represents a three-storey dwelling, which is contrary to Neighbourhood Plan policy H5. He also considers that the sheer size of the property, the density, scale and massing would result in a very dominant feature in this area of two-storey dwellings contrary to Neighbourhood Plan policy H1 and Local Plan policy EQ2. He is also concerned as to how drainage is to be dealt with and queries the true extent of the permissive access to the site from The Evergreens. Cllr Irving also queried the absence of tree and ecological surveys, which were then provided by the applicant.

*Following the receipt of additional information after this application was withdrawn from consideration for the 14<sup>th</sup> December 2022 Planning Committee the following comments have been received:*

An addendum to the endorsed petition has been received raising similar objections as those outlined above while also critiquing the content of the committee report for the 14<sup>th</sup> December 2022 Planning Committee. Further objections have also been received from properties in The Evergreens.

## **Policy Context**

The application site lies within an area designated as a Primarily Residential Area in the Sefton Local Plan (LP), adopted by the Council in April 2017. The National Planning Policy Framework, the New Housing (2018) Supplementary Planning Document and Sustainable Travel and Development (2018) Supplementary Planning Document are also material considerations.

The Formby and Little Altcar Neighbourhood Plan (NP) was 'made' (i.e. approved) on 21<sup>st</sup> November 2019 and carries full weight in decision making.

## **Assessment of the Proposal**

This application seeks approval for the erection of a detached two-storey dwelling, with accommodation in the roofspace, and associated ground-works and landscaping.

The main issues to consider in respect of this application are the principle of development, the impact on the character of the area, the impact on the living conditions of neighbouring properties, the living conditions to be provided to future occupiers and the access to the property.

### Principle of Development

As this site lies within a designated Primarily Residential Area, Local Plan policy HC3 'Residential Development and Primarily Residential Areas' is of direct relevance. This allows for new residential development where it is consistent with other Local Plan policies.

The Formby & Little Altcar Neighbourhood Plan, in Policy GP1 'Spatial Strategy', promotes the infilling of the settlement boundary (which this proposal falls within) for future housing, economic and community related development. Policy H2 'New Housing' requires new housing to be well connected within the site and within the wider town.

Subject to the assessment of the other matters that follow, the principle of development can be accepted.

#### Character of the Area

Local Plan policy EQ2 'Design' only permits development where it responds positively to the character, local distinctiveness and form of its surrounding. This approach is also taken within Neighbourhood Plan policy ESD2 'High Quality Design'.

Backland development is commonplace to the immediate area, as seen to the neighbouring Number 20a College Avenue, and as such the provision of a further dwelling here would be appropriate to the overall character of the area. This was a view also taken in granting the 1998 approval for a dwelling on this same site.

The general appearance of the proposal (in regard to the roof pitches, the fenestration and variation to elevations) and the finishing materials are acceptable and draw from those seen in the immediate area.

The scale of the dwelling has been reduced since the original submission so it better responds to the height of neighbouring properties and to respond to the requirements of Policy H5 of the Neighbourhood Plan (presumption against development of more than 2.5 storeys unless it can be demonstrated that such development is appropriate).

Objectors and Councillor Irving contend that the scheme as amended remains a three-storey dwelling but based on the elevations and the position of windows, limited to two-floors with rooflights to the roof this is not agreed. The proposal presents as a two-storey dwelling and as such does not fall foul of Neighbourhood Plan policy H5, which does not specify a maximum height for a dwelling merely that there will be a presumption against anything greater than 2.5 storeys.

Objectors reference the dwelling being too large for the plot, with the built footprint being too great. This is not agreed with. It is considered that the proposal represents a largely standard form of development as seen to this residential area, with a deeper rear garden than front and separation to the side elevations. Other 'as built' or extended properties in the immediate area also run close to shared side boundaries and this forms part of the prevailing character of the area.

Further, the application site (excluding the access) occupies an area of 0.1ha and so would represent a density of 10 dwellings per hectare. While this is below the density target within the Council's guidance as well as below the recommended target of 25-30 dwellings per hectare within H1 'Density' of the Neighbourhood Plan it is considered that this density reflects the prevailing character and is acceptable.

In respect of the garden size, this is commensurate with that seen to neighbouring properties and within the area.

On this matter the proposal is considered to be compliant with the aims and objectives of the Local and Neighbourhood Plans.

### Living Conditions

#### *Neighbouring Properties*

As scaled from the submitted plans there will be sufficient interface distances from habitable room windows, particularly upper-floor windows, to the rear gardens and habitable room windows of neighbours on The Evergreens to comply with the Council's guidance, save for the interface between windows of the proposal and those to the side elevation of Number 41 The Evergreens.

The amended proposed site plan shows a distance of at least 10.6m (as scaled from the drawing) from the first-floor front elevation of the proposed dwelling to the side boundary with the garden of Number 41. The Council's guidance recommends a minimum distance of 10.5m between habitable room windows and boundaries with gardens and as such the proposal is compliant with this guidance and will not unduly affect the neighbours' enjoyment of their garden.

The distance between the side window in Number 41 The Evergreens and the nearest window to the proposal will be around 20.8m (less than the recommended guidance of 21m). However, it is considered that this will not result in unacceptable impacts given this very minor shortfall from the guidance.

The distance of the proposed dwelling from Number 41 will also not cause unacceptable impacts through overshadowing of the garden or of any habitable room windows.

As taken from Ordnance Survey mapping the north-facing elevation of No 20a is at least 15m from the shared boundary with the proposal, and then the first-floor windows and juliet balconies to the proposal are 12.2m from this boundary, comfortably exceeding the 21m minimum distance between habitable room windows as recommended within the guidance. The ground-floor windows of the single-storey elements to the rear of the proposal are closer to the boundary, 9.7m, but the total distance will still exceed the 21m guidance to lessen any potential impacts through loss of privacy to windows to Number 20a.

In respect of the distance of windows to the rear garden of Number 20a, the ground-floor windows are positioned 9.7m from the boundary, which is below the recommended 10.5m distance within the guidance. However, as they are ground-floor windows they are unlikely to give rise to unacceptable impacts through overlooking and subsequent loss of privacy due to the height of the boundary between the two properties.

The position of the dwelling from boundaries allied with the orientation and/or depths of neighbouring gardens ensures that the proposal will not contribute to unacceptable impacts through overshadowing gardens or habitable room windows. Further, the siting will ensure that while visible the proposal will not result in an overbearing or overly dominant building that would have an unacceptable impact on the enjoyment of rear gardens or otherwise lessen the living conditions of neighbouring properties.



Post-construction, the comings and goings from this single dwelling to The Evergreens are unlikely to be so great as to result in unacceptable impacts through noise and/or general disturbance.

In view of the above it is therefore considered that the proposal will not give rise to unacceptable impacts to the living conditions of current or future occupiers of neighbouring properties

#### *Future Occupiers*

The garden size comfortably exceeds the minimum required within the Council's guidance and all the habitable rooms to the ground and first-floors will have good outlook. The two bedrooms within the roofspace will only be served by rooflights but this will be apparent to any future occupier. Given the floorspace of the proposal it is unlikely that this shortfall would result in unacceptable living conditions for future occupiers and furthermore if this was to be an issue for future occupiers then the building is capable of being adapted to meet future needs (for example subsequent approval would not be required for the use of the first-floor cinema/games room as a bedroom(s) in the future).

Taking a balanced view it is therefore considered that the proposal will provide for acceptable living conditions for future occupiers.

#### Access

The property having sufficient pedestrian and vehicle access from the highway is a key issue as to whether the proposal as a whole is acceptable or not. If it relied upon the agreement of third parties to secure or otherwise implement, then a condition securing access prior to occupation would be insufficient (as it would fail to meet the relevant tests) but instead a planning obligation, to be entered into by all parties, would be required.

A key point of contention from objectors is that access to this property will be through an existing private driveway serving several properties on The Evergreens. No information was originally submitted with the application to demonstrate that there was a right of way or other secured access from the application site across unadopted land to The Evergreens highway.

The agent for the application has submitted documentation to demonstrate that there is a right of access from this plot to The Evergreens highway, and he considers that sufficient vehicular and pedestrian access can be secured through a condition attached to any approval.

While objectors make reference to a permissive right of way they highlight that the extent of the red-line application site is much larger than the right of way, as physically shown within the existing private access serving properties, and query whether such an access is suitable (plus querying highway impacts arising from construction activities).

It is agreed that the red-line boundary for the site does encompass land outside of the control of the applicant but that this has been addressed through the serving of notice on other interested parties and the completion of the Certificate B ownership field within the application form. Further, this

boundary itself doesn't imply that the entirety of that red edged site would constitute a vehicular access to serve the proposed dwelling.

In respect of the position of the access, a further revised drawing was received that has moved the vehicle access gates further to the west.

In view of the above it is considered reasonable to secure the details of and provision for access from The Evergreens highway by way of a condition attached to any approval.

### Other Matters

#### *Trees*

The proposal seeks the removal of all trees present on site. As set out in the submitted Tree Survey Assessment, all but one of those trees are considered to be 'C' class in terms of quality (the other is 'B' class) and as such their removal is justified.

The proposed site plan indicates new tree planting but does not specify their size or species. So as to ensure compliance with the Local Plan such details will be required, which can be secured by a condition attached to approval (as will the implementation of an approved landscaping scheme.)

In respect of the impact on trees adjoining the application site, the assessment provides for marked root protection areas and advises methods of development such as piling and the use of porous surfaces retaining the existing ground levels (e.g. geoweb or similar, with all works done by hand) on areas of hard surfacing. Further, the assessment also recommends crown pruning to three trees (marked as T1, T3 and T9 in the assessment) whose crowns overhang the site.

As such it is considered that subject to adhering to arboricultural standards that the proposal is unlikely to cause harm to off-site trees, whilst the loss of on-site trees would be acceptable subject to replacement tree planting.

#### *Ecology*

The application is supported by a Preliminary Ecological Appraisal undertaken by Tyrer Ecological Consultants Ltd with surveying carried out on 20<sup>th</sup> September 2022.

The appraisal considers that the sole building on site, a small timber shed, provides negligible bat roost suitability and that the trees on site are absent of any "extensive rot holes, cracks, woodpecker holes, peeling bark, splits or other crevices typically used by bats" and as such also have negligible bat roost suitability.

No physical evidence of red squirrel activity was found in the site nor was any evidence of bird nesting. Further there were no field signs to indicate the presence of badgers within the site, with the absence of suitable habitat for sett building indicating that their presence is highly unlikely.

The appraisal considers that the site is unsuitable for great crested newts, common toad, common frog and reptiles, and that the site has few features that would likely provide habitat for invertebrates.

The appraisal does consider that the nature of the site may provide some suitability for shelter and hibernation for hedgehogs and so their presence throughout the year is considered to be possible.

In respect of flora no botanical species of conservation were identified within the site.

Although objectors have made anecdotal statements regarding the presence of protected species on the site no evidence has been provided to counter that provided by suitably qualified and experienced ecologists within the Assessment.

The appraisal recommends that the removal of trees, shrubs and vegetation is limited to being outside of the bird nesting season, which can be secured by a condition attached to any approval. Reasonable Avoidance Measures are recommended, to be set out within a working method statement, to reduce the risk of harming small mammals or other “terrestrial fauna”. The method statement can be secured by a condition.

Notwithstanding the absence of evidence of red squirrel use within the site it is considered reasonable to attach a condition to any approval requiring all trees and shrubs to be checked for dreys prior to their removal, with a report confirming this to be submitted to the Council.

Moving beyond matters of protection, a number of options to enhance biodiversity are recommended within Appendix III of the appraisal. As such a condition will be attached to any approval seeking the details of the number and location of bat boxes, bird boxes, bee bricks and hedgehog ‘highways’ to be provided within the site, along with a timetable for their implementation.

#### *Drainage*

As the proposal will result in a net increase in the impermeable surface of the site it is considered reasonable and necessary to secure the submission, approval and subsequent implementation of a full sustainable drainage scheme by a condition. This is necessary to ensure that flood risk isn’t increased on this site or, importantly, to neighbouring sites, which is a requirement within Neighbourhood Plan policy F1 and Local Plan policy EQ8. Given the current nature of the site any drainage scheme must achieve a greenfield runoff rate.

Subject to the condition being met this aspect of the proposal is considered acceptable.

#### Equality Act Consideration

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.

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.

### **Conclusion**

In view of the above it is considered that this application complies with the aims and objectives of the Formby & Little Altcar Neighbourhood Plan, the Local Plan and all other material considerations. The proposal is therefore recommended for approval with the conditions that follow.

## **Recommendation – Approval with Conditions**

### **Time Limit for Commencement**

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: In order that the development is commenced in a timely manner, as set out in Section 91 of the Town and Country Planning Act 1990 (as amended).

### **Approved Plans**

- 2) The development shall be carried out in accordance with the following approved plans and documents:

00 Rev A 'Location Plan'

05 Rev H 'Existing and Proposed Site Plans'

10 Rev F 'Proposed Plans'

15 Rev H 'Proposed Elevations'

Preliminary Ecological Appraisal, October 2022, Tyrer Ecological Consultants Ltd

BS5837 Tree Survey Assessment, ref 220653\_22/A1, June 2022, Indigo Surveys Ltd

Reason: For the avoidance of doubt.

### **Before the Development is Commenced**

- 3) No development shall commence, including any works of demolition, until a Highways Construction Management Plan has been submitted to, and approved in writing by, the local planning authority.

This shall include but not be limited to such matters as the number of trips and type of vehicles to be used, the delivery hours, the location and extent of a site compound for parking of vehicles and the location and extent of wheel washing facilities (or other measures to limit the potential spreading mud on the carriageway).

The approved statement shall be adhered to throughout the implementation of this permission.

Reason: This is required prior to the commencement of development in order to ensure the safety of highway users during both the demolition and construction phase of the development. If the details are not approved prior to commencement it will prejudice the safety of highway users.

- 4) a) No development shall commence until a detailed scheme showing vehicle access from The Evergreens adopted highway through to the vehicle access gates of the dwelling hereby approved has been submitted to and approved in writing by the Local Planning Authority.
- b) The approved scheme shall then be implemented and completed prior to the first occupation of the dwelling.

Reason: To ensure that the proposal can be safely accessed.

- 5) No development shall commence, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period and shall include details regarding noise, dust and vibration suppression along with details of any piling/ground compaction measures to be used and measures to mitigate impacts arising from such works.

Reason: To safeguard the living conditions of neighbouring occupiers and land users during both the demolition and construction phase of the development.

- 6) Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. In the event of surface water draining to the public surface water sewer, the pass forward flow rate to the public sewer must be restricted to 5 l/s.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason: To ensure satisfactory drainage facilities are provided to serve the site in accordance with the National Planning Policy Framework, policy F1 of the Formby and Little Altcar Neighbourhood Plan and Policy EQ8 of the Sefton Local Plan.

- 7) a) Given the known presence of red squirrel within this area, as a precaution a pre-commencement check of any trees or shrubs must be undertaken prior to their removal.
- b) A report confirming the absence of dreys must be submitted to and approved by the Local Planning Authority prior to any shrub or tree removal.

Reason: In the interests of ecology.

- 8) Prior to the commencement of development site specific information must be submitted to and approved by the Local Planning Authority in respect of the measures to be used to protect trees bordering the development site.

The approved measures must then be adhered to throughout construction.

Reason: To ensure trees are protected.

- 9) a) Prior to the commencement of development a working method statement setting out reasonable avoidance measures to reduce the risk of harm to small mammals and terrestrial fauna (such as hedgehogs) shall be submitted to and approved in writing by the Local Planning Authority.
- b) The approved method statement shall then be adhered to at all times until the development is completed.

Reason: In the interests of ecology.

#### **Before the Development is Occupied**

- 10) The dwelling shall not be occupied until a detailed scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include replacement planting for those trees to be lost at least at a 1:1 basis (minimum heavy standard as planted) and any trees must be small seed-bearing species which encourage red squirrels and discourage grey squirrels.

Reason: To ensure sufficient living conditions for future occupiers and to enhance biodiversity.

- 11) a) The dwelling shall not be occupied until all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out for that particular property.
- b) any trees or plants which within a period of 5 years from the completion of the development

die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure sufficient living conditions for future occupiers and to enhance biodiversity.

12) a) The dwelling hereby approved shall not be occupied until details of bat boxes, bird boxes, bee bricks and hedgehog 'highways' to be installed to the dwelling/within the site (to include number, type and location on an appropriately scaled plan as well as timing of installation) has been submitted to and approved by the Local Planning Authority.

b) The details approved under (a) above must be implemented in accordance with those details prior to the first occupation of that particular dwelling and maintained as such thereafter.

Reason: In the interests of biodiversity.

#### Ongoing Condition

13) a) No tree felling, scrub clearance, hedgerow removal, vegetation management, ground clearance and/or building works is to take place during the period 1 March to 31 August inclusive.

b) If it is necessary to undertake works during the bird breeding season then all buildings, trees, scrub, hedgerows and vegetation are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present.

c) If present, details of how they will be protected are required to be submitted for approval.

d) If necessary the details approved under (c) above shall be implemented.

Reason: In the interests of ecology.

#### Informatives

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

2) There are a variety of piling methods available, some of which cause considerably greater noise and vibration than others. It is common for the prevailing ground conditions to influence the chosen method of piling. Where the prevailing ground conditions would permit more than one piling method, the Council would expect the contractor to choose the method which causes the least amount of noise and vibration, in accordance with the following hierarchy:

Pressed-in methods, e.g. Hydraulic jacking  
Auger / bored piling

Diaphragm Walling

Vibratory piling or vibro-replacement

Driven piling or dynamic consolidation

Should the contractor propose to use a method which is not the preferred lower impact option, then satisfactory justification will need to be provided in order to demonstrate the piling method that is utilised meets Best Practicable Means (BPM). Please note vibration monitoring will be required for all piling projects. For further advice on what to include in your piling methodology scheme and current standards please contact Sefton's Pollution Control Team (email [ETSContact@sefton.gov.uk](mailto:ETSContact@sefton.gov.uk))