

Appeals Received and Decisions Made

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Appeals received and decisions made between 05 July 2024 and 29 August 2024

Appeal Decisions

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: Allowed

Decision Date: 30/07/2024

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: Allowed

Decision Date: 19/07/2024

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: Dismissed

Decision Date: 17/07/2024

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: Dismissed

Decision Date: 17/07/2024

66 Elm Road Seaforth L21 1BL

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

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

Procedure: Written Representations

Start Date: 21/02/2024

Decision: Dismissed

Decision Date: 16/07/2024

National Trust Car Park Victoria Road Formby

Reference: DC/2022/02146 (APP/M4320/W/23/3331280)

Procedure: Written Representations

Appeals received and decisions made between [05 July 2024](#) and [29 August 2024](#)

Relocation of the existing car park and restoration of frontal dune habitat.

Start Date: 08/01/2024
Decision: Allowed
Decision Date: 08/07/2024

New Appeals

[66 Eshe Road North Crosby L23 8UF](#)

Reference: DC/2024/00577 (APP/M4320/D/24/3347563)

Erection of part two storey/part single storey extensions to the side/rear, first floor extensions and balcony with glass balustrade, and dormer extension to the rear of the dwellinghouse and French doors to the side of the existing two storey rear extension following demolition of the existing detached garage to the side.

Procedure: Householder Appeal
Start Date: 13/08/2024
Decision:
Decision Date:

[41 Durham Road Seaforth L21 1EF](#)

Reference: DC/2024/00442 (APP/M4320/W/24/3345419)

Change of use from retail unit and maisonette to 2 flats

Procedure: Written Representations
Start Date: 18/07/2024
Decision:
Decision Date:

[101 South Road Waterloo L22 0LT](#)

Reference: DC/2024/00288 (APP/M4320/W/24/3346410)

Retention of ground floor class E use at front of premises; change of use of the rear part of the ground floor and all of the 1st and 2nd floors to form a 7 bedroom (7 person) House of Multiple Occupancy (Sui Generis); removal of flat roof above rear yard to create amenity space; bin refuse and cycle storage and associated external alterations

Procedure: Written Representations
Start Date: 01/08/2024
Decision:
Decision Date:



Appeal Decision

Site visit made on 3 July 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 30 July 2024

Appeal Ref: APP/M4320/W/23/3335572

8 Glenpark Drive, Southport, Sefton PR9 9FA

- 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 Mrs Joanne Cowens against the decision of Sefton Council.
 - The application Ref is DC/2023/01683.
 - The development proposed is the change of use of the property from residential (Use Class C3) to residential care (Use Class C2).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the property from residential (Use Class C3) to residential care (Use Class C2) at 8 Glenpark Drive, Southport, Sefton PR9 9FA in accordance with the terms of the application, Ref DC/2023/01683, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of the proposed development in the banner above is taken from the application form. However, in the interest of brevity I have removed sections of the description which do not refer to development.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupants of 6 and 10 Glenpark Drive (Nos 6 and 10) and 2 Merepark Drive (No 2), with particular regard to noise and disturbance.

Reasons

4. The appeal property is one of several semi-detached properties along Glenpark Drive. It is attached to No 10 and it is next to No 6. The rear gardens of these properties are perpendicular to the rear garden of No 2. As such, the appeal property shares boundaries with Nos 6 and 10, and No 2. All of the properties have moderately-sized gardens.
5. The appeal property is a 3-bedroom dwellinghouse. Given the size of the appeal property, its use could generate a modest amount of activity. This may include occupants travelling to and from work or school, servicing of the property such as refuse collection, and the delivery of goods. The appeal property is also in proximity to Preston New Road (A565), which has the appearance of an arterial route. During my site visit, I observed that traffic on Preston New Road is the main source of background sound in the area.

6. The appeal proposal would lead to the change of use of the property to residential care accommodation for up to 2 people. The proposed occupants of the property would be supported, 24-hours a day, by care providers. The property would also be accessed by support workers and outside agencies.
7. An indicative rota for the care providers has been provided which indicates there would be three handover periods a week. However, as the rota is only indicative, there could be more handovers, which would generate more activity at the appeal property. It is reasonable to conclude that there could be multiple handovers a day, and there could be daily activity relating to the occupants travelling to and from the site, and/or by support workers and outside agencies accessing the property. During handover periods there would be a more intense period of activity, where multiple people enter and leave the appeal property in a short period of time.
8. Whilst the activity associated with the appeal property would increase following the change of use, the occupation of the appeal property could be restricted to two occupants by condition. Therefore, the increase in activity would be modest when compared to the existing use of the appeal property.
9. There would be more activity in external areas associated with increased vehicle movements. However, there is no substantive evidence that the rear garden area would be used more intensively than it currently is. Given the existing background sound, I do not consider that the modest increase in vehicle movements would materially alter the amount of noise experienced in external areas of neighbouring properties.
10. I acknowledge the personal circumstances of neighbouring occupants who regularly use their gardens. One of the neighbours has identified themselves and their wife as elderly and as having medical problems. Therefore, the protected characteristics of age and potentially disability are relevant. When reaching my conclusion, I have had due regard to the Public Sector Equality Duty (PSED) set out under Section 149 of the Equality Act 2010; in particular the need to eliminate discrimination against persons with protected characteristics, advancing equality of opportunity for those persons and fostering good relations between them and others. In this instance, whilst the amount of noise experienced may increase in external areas, it would not be to a harmful extent. Therefore, I am satisfied that people with protected characteristics would not be discriminated against, it would not affect their equality of opportunity, and it would not alter the ability to foster good relations between them and others.
11. Although there would only be a limited increase in activity, the amount of noise experience inside No 10 could be harmful to the living conditions of its occupants due to its close relationship with the appeal property. However, the effect of the change of use could be mitigated with a sound insulation scheme. A condition requiring details of a sound insulation scheme to be submitted to and approved by the Council could be attached to the planning permission.
12. Two appeal decisions¹ at 106 Cambridge Road have been put before me. Those proposals are materially different to the appeal proposal as they included the change of use of a property to accommodate 5 mothers and their new-born babies. Moreover, occupants were only expected to live at that property for 12

¹ Appeal Refs. APP/M4320/W/18/3202427 and APP/M4320/W/19/3239836

weeks, as such it would attract a more transient population than the appeal proposal which is expected to accommodate longer term occupants. Also, the most pertinent details of the appeal proposal² at 1 Bridge Street, including the proposed maximum occupation, are not before me. As such, it is not possible to compare that proposal with the appeal proposal. Therefore, the dismissal of those appeals does not set a precedent for the appeal proposal.

13. Overall, I conclude that the proposal would not have a harmful effect on the living conditions of occupants of Nos 6 and 10 and No 2, with particular regard to noise and disturbance. It would comply with Policy HC3 of A Local Plan for Sefton, April 2017 (LP), which indicates that non-residential development will be permitted in primarily residential areas provided that it will not have an unacceptable impact on the living conditions of neighbouring occupants.
14. The reason for refusal on the decision notice indicates that the proposal would be contrary to LP Policy HC4. However, this policy is not strictly relevant to the proposal as it concerns extensions and alterations to dwellinghouses and the conversion of buildings into Houses in Multiple Occupation (HMOs). Nonetheless, the proposal would comply with one of the broad aims of this policy, which is that a conversion of a building will be permitted where it will not cause significant harm to the living conditions of neighbouring occupants.

Other Matters

15. The proposal would lead to additional demand for parking which may not be able to be accommodated on the appeal property's driveway. There are no restrictions for on-street parking in proximity to the appeal property and there is no substantive evidence that the increased demand could not be safely accommodated within the road network. Moreover, the Council did not object to the proposal on highway safety grounds and I agree with this conclusion.
16. In considering this appeal, I have had due regard to the PSED. In this instance, both the proposed occupants and interested parties are persons with the protected characteristics of age and/or disability. With regard to the PSED, I am satisfied that the outcome of my decision would eliminate discrimination against persons with protected characteristics, advance equality of opportunity for those persons and foster good relations between them and others.

Conditions

17. The Council has indicated the conditions that it considers would be appropriate. I have considered these in light of the guidance contained within the PPG and the Framework.
18. Conditions specifying a time limit to implement the permission and approved plans are required in the interest of certainty. Given the appellant's personal circumstances it is necessary and reasonable to provide an extended commencement period to minimise disruption.
19. A condition requiring details of cycle storage to be submitted to and approved by the Council is necessary to encourage the use of alternatives to private motor vehicles.

² Appeal Ref. APP/M4320/W/19/3231962

20. Conditions requiring improved sound insulation in the party wall to be installed and a restriction on the level of occupancy is necessary to ensure that the proposal does not have a harmful effect on the living conditions of neighbouring occupants.

Conclusion

21. For the reasons given above the appeal should be allowed and planning permission should be granted.

J Hobbs

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with Location Plan, dated 26 September 2023; and Floor Plan, with the Smart Move watermark.
- 3) Prior to the commencement of the hereby approved use, a scheme of enhanced sound insulation to the party wall with 10 Glenpark Drive, shall be submitted to and approved in writing by the Local Planning Authority.
The approved scheme shall be implemented in full, prior to the commencement of the hereby approved use and shall be retained thereafter.
- 4) Prior to the commencement of the hereby approved use, details of secure storage for bicycles shall be submitted to and approved in writing by the Local Planning Authority.
The approved storage shall be installed prior to the commencement of the hereby approved use and shall be retained thereafter.
- 5) The property shall be used solely as residential care accommodation (Use Class C2) by a maximum of two occupants, at any one time.



Appeal Decision

Site visit 28 June 2024

by Mike Worden BA (Hons), Dip TP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th July 2024

APP/M4320/W/24/3338768

Land to the rear of 1-3 Aughton Road, Southport, Merseyside, PR8 3AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Kel Holding Ltd against the decision of Sefton Metropolitan Borough Council.
 - The application Ref is DC/2023/01679.
 - The application sought planning permission for the erection of a two storey block of 4 no. self-contained apartments with external alterations and associated car parking without complying with a condition attached to planning permission Ref DC/2019/1901, dated 21 May 2020.
 - The condition in dispute is No 7 which states that: No development shall commence above slab level 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 removal of an existing highway tree and the removal of the existing 'H' sign to the highway. No part of the development shall be brought into use until the required highway works have been constructed in accordance with the approved details.
 - The reason given for the condition is: these details are required prior to commencement to ensure that acceptable access to the development is achieved and to ensure the safety of highway users.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two storey block of 4 no self-contained apartments with external alterations and associated car parking at land to the rear of 1-3 Aughton Road, Southport, Merseyside PR8 3AF in accordance with the application Ref DC/2023/01679 without compliance with condition numbers 1,2 and 7 previously imposed on planning permission Ref DC/2019/01901 dated 21 May 2020 and subject to the conditions on the attached schedule.

Preliminary Matters

2. The development to which the permission relates has commenced and appears to be either complete or substantially complete.
3. In my decision I have used the description of development as set out on the decision notice.
4. Condition 7 of the permission requires the submission of a detailed scheme of highway works and programme of completion prior to development. That

programme of works was required to include detail relating to the removal of a street tree and an existing sign. The application sought to delete condition 7 and replace it with a revised layout for access to the site.

5. It is not possible for condition 7 to be deleted and replaced with a revised layout. A revised layout can only be considered in relation to condition 2, which lists the plans to which the permission relates.

Main Issue

6. The main issue is the effect of removing the condition on highway safety.

Reasons

7. The appeal site lies in a residential road just to the south of Southport town centre. The development to which the condition in dispute relates, was to construct a block of four flats to the rear of no 1 Aughton Road, a large semi-detached house. Access would be via the side of the house down the existing drive. The approved plans showed two parking spaces to be located directly in front of no 1 Aughton Road to be accessed directly off the street. This would have required the removal of an existing street tree and wall.
8. I consider that the tree makes an important contribution to the street scene. It is one of a number of established street trees along Aughton Road and collectively these trees form part of the attractive character and appearance of the street.
9. The appellant proposes a revised layout with car parking spaces provided further into the site, adjacent to the new flats. This would mean that the existing street tree directly in front of 1 Aughton Road would not have to be removed and neither would the brick wall. I consider that this uniform wall, which is topped with coping stones and runs the full length of the frontage of 1 and 3 Aughton Road also makes an important contribution to the street scene. Removing part of it would make the semi-detached pair of houses look unbalanced and would appear incongruous in the street scene.
10. I have considered the views of the Council's highways officers in respect of their concerns about the revised scheme. However, having observed the now constructed parking spaces and turning arrangements on site, I do not consider that there would be any demonstrable evidence of any harmful impact on highway safety by the removal of the condition. In any event the revised scheme presents clear benefits in terms of its impact on the character and appearance of the area than the permitted scheme.

Conditions

11. The disputed condition, condition 7 of the original permission is not necessary. I will substitute the plans condition, condition 2, with a new condition including the revised access layout plan. I have not referenced the landscape masterplan or the arboricultural impact assessment as I have not been provided with a copy of either. In any case, tree planting details have already been agreed by the Council meaning that such references are not necessary.
12. Condition 1 is not necessary now that the development has commenced and neither are the conditions relating to construction management details. I have amended the wording of the other pre-commencement conditions. The details

required by conditions 5, 6 and 8 have now been submitted and approved by the Council and I have amended the wording of those and other remaining conditions as necessary. I have combined the tree conditions into one for clarity and effectiveness.

13. I have renumbered the conditions.

Conclusion

14. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition, substituting the plans condition for a new condition, and restating, as amended for the reasons set out above, those undisputed conditions that are still subsisting and capable of taking effect.

Mike Worden

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with drawing nos : AR/ADA/01/A Revision I, AR/ADA/02/A Revision D, ARA/ADA/03/A Revision E.
- 2) The surface water drainage scheme must be implemented out in accordance with the approved details and retained in perpetuity.
- 3) The materials used in the development must accord with the approved details.
- 4) The scheme of tree planting on the site must accord with the approved details and must be undertaken within the first planting/seeding season following completion of the development. Any trees or plants which, within a period of 5 years from completion of the development, die, are removed or become damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 5) The development shall not be occupied until a minimum of 1 electric vehicle charging points have been installed and are made available for use within the development as permitted. The approved infrastructure shall be permanently retained thereafter.
- 6) No part of the development shall be occupied until space has been laid out within the curtilage for cars to be parked and those spaces shall thereafter be kept available for the parking of vehicles in perpetuity.
- 7) No dwelling shall be occupied until the access road has been constructed to the base course level to enable access to the dwellings.
- 8) The development shall not be occupied until facilities for the secure storage of cycles have been provided in accordance with the details shown on the approved plans and they shall be retained in perpetuity thereafter.
- 9) Foul and surface water shall be drained on separate systems. Surface water shall be drained in accordance with the hierarchy of drainage options in national planning practice guidance. In the event of surface water discharging to public sewer, the rate of discharge shall be restricted to the lowest possible rate, which shall be agreed with the statutory undertaker prior to connection to the public sewer.



Appeal Decision

Site visit made on 17 June 2024

by A.Graham BA(hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 17th July 2024

Appeal Ref: APP/P4320/W/24/3338031 26 Stanly Park, Liverpool L21 9JT

- 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 Sean Coulton against the decision of Sefton Council.
 - The application Ref: DC/2023/01611 dated 27 September 2023 was refused by notice dated 22 November 2023.
 - The application is for erection of a dwelling with additional parking following the demolition of existing garage and wall within the curtilage of 26 Stanley Park.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application a revised National Planning Policy Framework (The Framework) was published in December 2023. I have therefore determined this appeal in accordance with the revised provisions within the Framework.
3. The Appellant's Statement of Case has gone into some great detail with regards the use of the proposed building as an annexe for elderly relatives. The original application however was concerned with seeking approval for the erection of a new dwelling and no supporting evidence was provided with regards any associated use such as the proposed building being a Granny Flat. As such, I am obliged to assess this appeal with regards the description used within the original application form.

Main Issues

4. The main issue is the effect of the proposal upon the character and appearance of the area and upon the living conditions of neighbours.

Reasons

5. The appeal property is a two storey semi detached house that I consider would date to around the later part of the 19th century. The building, although seemingly having been extended, exhibits high quality architectural features typical of a building of this age. These include a protruding partial bay window, quoined corners and attractive arched architraves around windows. To the rear the building diminishes in size as an outshut extension extends into a decent sized rear garden.

6. The building is one of a collection of more historic properties within this part of Stanley Park that are set back from the road's edge within fairly sizeable plots, more often than not with front gardens and attractive boundary treatments that both soften and enhance the quality of the streetscene here. In the case of the appeal site this manifests itself as a low wall and railings with stone conical gateposts and lawn to the front. Existing on site and street trees also have a highly positive effect upon the character and appearance of the area here.
7. I consider that, because of the quality of the original building and its associated boundary treatment and landscape, that the property and its site makes a generally positive contribution to the locality as a whole.
8. To the side of the main house is a driveway and more landscape trees that terminate at a white coloured wall and single garage that effectively divide the plot from front to rear garden. The proposal intends to remove this single garage and construct a single storey dwellinghouse in this location that would extend somewhat further into the rear garden area.
9. Notwithstanding any proposed particular use, the proposed building would consist of two bedrooms and living kitchen area to the rear. Access to the main entrance would be from the side elevation alongside the parent property. The building would be a simple brick pitched roof bungalow with an asymmetrical and horizontal window to the front elevation and bi-fold doors to the rear. To the side two further horizontal windows would face onto number 26 itself.
10. To the front of the main house the existing lawned garden would be changed to hardstanding so as to accommodate up to five vehicles. It is not clear what would happen to existing vegetation and trees although presumably most would be felled to make way for the bungalow and parking.
11. Policy EQ2 Part 1 of the Council's Local Plan reflects The Framework in its approach to ensuring development proposals are of a high quality design, and that responds positively to local character and distinctiveness. Part 2 of this policy also reflects these aspirations for the way new development functions in its role in protecting the living conditions of neighbours.
12. Although the scheme before me would replace an existing garage, this structure is visibly ancillary to the main dwellinghouse and is generally unassuming in the streetscene. However the proposed bungalow would introduce a form of development that would be much larger than this existing garage and would not reflect the local character nor the quality and distinctive architectural qualities such as there are both to the rear of the appeal site and within the wider streetscene.
13. The asymmetrical horizontal window and generic design for instance would fail to take the opportunities to reflect this distinctive and high quality character that is formed by the both the appeal property and many of its neighbours. This impact would be made much worse through the proposed paving over of the front lawn area to be replaced by parking. This would result in vehicles being highly visible within the streetscene and would significantly undermine the positive qualities of the area as I have identified above. As a result the design of the proposed bungalow would introduce a poor architectural response that would cause significant harm to the character and appearance of the area.

14. In terms of the effect of the proposal upon the living conditions of neighbours, were this to be a separate dwelling then there would be a significant impact with regards overlooking and the access requirements to that of the proposed dwelling and the main house. Were the building to be interlinked in use (such as a granny annexe) then such issues may not be relevant, however in assessing this appeal as that originally applied for, I conclude that there would be harm to the living conditions of both residents at number 26 as well as those prospective occupants of the proposed bungalow.
15. As such the main harm caused through this proposal would be to the character and appearance of the streetscene caused through both the poor design of the proposed bungalow and the harm caused through the parking and dominance of vehicles to the frontage of the appeal property. Such harm would be compounded by the effect of the proposal upon the living conditions of neighbours were this proposal to be a separate dwelling as originally applied for and as assessed by the Council.
16. As such the proposal would not meet the overriding policy requirements of Parts 1a and Part 2b of Policy EQ2 of the Sefton Local Plan nor would it be in conformity with the Framework and its continued emphasis upon the importance of good design. As such the appeal must fail.

Conclusion

17. For the reasons given above, and taking into account of all other matters raised, I dismiss the appeal.

A Graham

INSPECTOR



Appeal Decision

Site visit made on 17 June 2024

by A.Graham BA(hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 17th July 2024

Appeal Ref: APP/P4320/D/24/3341511
8 Hastings Road, Birkdale PR8 2LS

- 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 David Vidheon against the decision of Sefton Council.
 - The application Ref: DC/2023/02023 dated 20 November 2023 was refused by notice dated 17 January 2024.
 - The application is for proposed alterations to safety balustrade at first floor balcony and extension to balcony.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposal upon the living conditions of neighbours.

Reasons

3. The appeal property is a two storey detached house that has seen significant modification over recent years from its origins as a Mock Tudor, Arts and Crafts inspired property to that of a more modern looking off white rendered house. The property is set back from the road where the front garden is almost wholly hardstanding for vehicles and to the rear there is a generous garden that is partially terraced as it extends away from the property.
4. The property has previously been extended with a two storey extension to the side and rear and a single storey extension also to the rear that has seemingly been constructed along the back length of the house¹. As part of this application there was access to part of the central area of the flat roof rear extension from first floor rooms. This accessible area appears to have been originally intended to halt around the start of the first floor projecting wing adjacent to the neighbouring house at number 6. The balcony rail effectively now divides this space in two but work has since been undertaken to rail off the area in front of this projection in order to make the area safe should emergency access be required to the first floor bedroom here. It is this area of balustrade, and its associated potential use as a balcony, that is the main subject of this appeal.

¹ Application approved 2020 reference number DC/2020/00757

5. In assessing this scheme, although I understand that the bedroom here requires a means of escape, I am at pains to find a way that such means of escape could reasonably and fully exclude those occupying this part of the property from using the roof space as an informal amenity area. This is especially true in light of the need to maintain this access open at all times. As such I am obliged to assess this scheme based upon what I consider is the high likelihood of this space being used as a balcony which people could occupy.
6. I saw on my site visit that the appeal property is located due south to that of number 6 next door over who's garden the balcony currently overlooks. Number 6 has a single storey extension to the nearest part of the ground floor here and another room at first floor level. As a result of the extensions to the appeal site, this room appears to be set back considerably from the rear façade of the single storey ground floor projection at the appeal site.
7. Through wishing to maintain this area of roof as a balcony, whether formal or informal, there are two issues at stake. Firstly, there would be a considerable impact upon the living conditions of neighbours at number 6 through overlooking that could very easily occur by anyone who was to stand at such a height, so close to the common boundary. Secondly, were there to be erected a 1.7m obscure glazed screen here, as proposed to protect this amenity, the addition of a further projection would potentially result in further issues through over dominance and perhaps some over shadowing due to the height and extent of the proposed railings.
8. In assessing these issues I concur with the Council that considerable overlooking would occur over the neighbours garden were the scheme to be left as it is. As such some form of shielding would be required to be effective in mitigating such an impact. However, the added protrusion of a further obscure screen here would, although lightweight and partially transparent, lead to a sense of further enclosure from this elevation which would also be harmful and would result in an over dominant impact upon those occupying number 6.
9. As mentioned above, although this area would, with the best of intentions, only be used as emergency escape, in reality there would be no way to enforce or ensure such use was only for emergency purposes. As a result I find that the scheme before me would, on balance, constitute a harmful impact upon the living conditions of neighbours and that, as a result, this proposal would be in conflict with Policy HC4 of the Sefton Local Plan and the Council's own Supplementary Planning Document on House Extensions. As such the appeal must fail.

Conclusion

10. For the reasons given above, and taking into account of all other matters raised, I dismiss the appeal.

A Graham

INSPECTOR

Appeal Decision

Site visit made on 3 July 2024

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 16th July 2024

**Appeals ref: APP/M4320/C/23/3335692; APP/M4320/C/23/3335693;
APP/M4320/C/23/3335694
66 Elm Road, Seaforth, Liverpool L21 1BL**

- The appeals were made by Mr Vivek Srivastava on behalf of THE CARE ADVANTAGE LTD, (APP/M4320/C/23/3335692), by Company Secretary xxx xxx, (APP/M4320/C/23/3335693) and by Company Secretary DREAMPOSTCODE LIMITED, XXX, (APP/M4320/C/23/3335694), under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Sefton Metropolitan Borough Council.
- The notice was issued on 23 November 2023; reference EN/2023/00628.
- The breach of planning control was: Without planning permission, the material change of use of the land from use for a house in multiple occupation (HMO) to a Childrens residential home.
- The requirement of the notice is: You must cease using the property (as shown cross hatched on the plan attached to the notice) as a Childrens residential home (C2).
- The time for compliance with the requirement of the notice is two months.
- The CARE ADVANTAGE LTD, the Company Secretary xxx xxx and Company Secretary DREAMPOSTCODE Ltd appealed against the enforcement notice on grounds (a), (f) and (g) as set out in the amended Act.

Summary of decision: the enforcement notice is upheld. Planning permission is not granted on the applications deemed to have been made

Enforcement notice appeals

The appeals on ground (a)

1. The appeals concern the use of the 2 storey end of terrace dwelling, No. 66 Elm Road, Seaforth as a children's residential home, (Use Class C2 (residential institutions) (The Town and Country Planning (Use Classes) Order 1987). The internal layout is that of a normal family home, with the exception of the provision of accommodation for carers and the numbering and securing of rooms. There is a small and narrow hard surfaced yard to the side and rear.
2. Planning permission was granted on 30 June 2021 for the change of use of No. 66 from dwellinghouse (C3) into a house in multiple occupation (HMO) (sui generis) (3 units) (ref: DC/2021/00690). A planning application made by Mr Vivek Srivastava for the change of use of No. 66 Elm Road from an HMO (Sui Generis) to a Children's residential home (C2) ref: DC/2023/01266, was refused planning permission on 16 October 2023. No appeal was made against that decision. Nevertheless, the appeals made on ground (a) against the enforcement notice that planning permission should be granted to retain the use of No. 66 as a children's residential home fall to be considered.

3. The Council's 2 reasons for issuing the enforcement notice were the same as those given for refusing the DC/2023/01266 application. The first reason said the children's residential use would result in an intensification of activity at the site, having regard in particular to the frequency and pattern of visits by staff and the number of children. It would result in an unacceptable impact on neighbouring amenity. Associated additional noise and disturbance from the use would be to the detriment of the amenity of neighbouring residents and the character of the area, contrary to the National Planning Policy Framework, (NPPF), and Policy HC3 Part 2a and b of the Sefton Local Plan.
4. An extract from the Government statement - Planning for accommodation for looked after children, 23 May 2023 – said: "*The planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children's communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love.*". That statement by the Minister of State for Housing and Planning was supported by the Secretary of State for Education. It is significant that the statement looks to the provision of homes for vulnerable children in the "... right homes in the right places ...".
5. The Appellants said there was no evidence that the children's home use would produce any intensification of activity at No. 66. The shift pattern as indicated in the Management Statement would be little different to shift workers coming and going living in the house used as a normal domestic dwelling. Similarly, if No. 66 was occupied for its lawful use as an HMO, the activity generated would be no less, probably more, than if occupied as a children's home.
6. I understand that at the time of my site inspection, there were 2 children living at No. 66. Two care workers were to be there at all times, with a daily change over for day and night shifts. The Appellants were content that a permission for that use be conditioned to limit the number of children living at No. 66 to a maximum of 4. I accept it may be that for much of the time an HMO occupation of No. 66 would generate a similar level of activity, or disturbance to immediate neighbours as its use as a children's home. There would be different patterns of living at a children's home, however. The comings and goings of carers working a 24 hour caring regime could disturb close neighbours. The possible disruptive behaviour of the most vulnerable child occupants of No. 66 at any time of the day or night could also be disruptive to those living close by. There is also a lack of usable private outdoor space at No. 66 which suggests the children could have to be locked inside for much of the time, as perhaps indicated by the locks to each room. Additionally, the close proximity of the curtilage of No. 66 to the rear private amenity areas of Nos. 38 to 42 Rawson Road to the south-west and to Nos. 33 and 35 Cecil Road as well as the attached house at No. 64 Elm Road suggest to me that the appeal dwelling used to accommodate vulnerable children is not well placed in this locality.
7. I am less persuaded by the Council's second reason for issuing the enforcement notice which said there would be an increase in the level of crime and antisocial behaviour in an already high crime area. The Police seemed to take an opposing view, worried about possible adverse social influences on the

child occupants of No. 66. I consider that with the level of care and supervision of vulnerable children expected at No. 66, it would seem unlikely that the children in care would be harmfully influenced by those living around them. Equally, I would not expect the occupants of No. 66 to have any adverse effect on the behaviour of neighbours.

8. Probable harmful effect on neighbour amenity leads me to conclude that planning permission for the use of the dwelling at No. 66 Elm Road as a children's residential home for up to 4 children should be withheld. The appeals on ground (a) fail.

The appeals on ground (f)

9. No representations were made with respect to the appeals made on ground (f). I consider that the main purpose of the enforcement notice is "to remedy any injury to amenity caused by the breach", (s.174(2)(f) of the Act). The only cogent remedy, where the unlawful use is unacceptably harmful to local amenity, is to require that use to cease. That is what the requirement of the notice appropriately purports to do. The appeals on ground (f) fail.

The appeals on ground (g)

10. The appeals on ground (g) ask that more time is granted to comply with the requirement of the enforcement notice. The notice requires the children's residential home use of No. 66 to cease within 2 months of the issue of this decision. The Appellants asked that at least 12 months be allowed. The children were reliant upon the service. They were settled. Any enforced removals could have an adverse and long-lasting effect upon them.
11. I agree that a 2 month period for compliance with the requirement of the notice could cause an unnecessarily hurried disruption to those at No. 66. To allow the requested period of 12 months would be tantamount to an unwarranted temporary planning permission. However, I increase the period for compliance to 6 months to allow more time for suitable changes to be made. Subject to that limitation, the appeals on ground (g) succeed.

FORMAL DECISION

**Appeals ref: APP/M4320/C/23/3335692; APP/M4320/C/23/3335693;
APP/M4320/C/23/3335694**

12. The appeals are dismissed. The enforcement notice is varied by the deletion of the words "Two months" in line 3 of para. 6. on page 2 of the notice and the substitution therefor of the words "Six months". Subject to that, the varied enforcement notice is upheld. Planning permission is not granted on the applications deemed to have been made for the retention of the use of No. 66 Elm Road, Seaforth, Liverpool L21 1BL as a Children's residential home, (Use C2).

John Whalley

INSPECTOR



Appeal Decision

Site visit made on 2 April 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2024

Appeal Ref: APP/M4320/W/23/3331280

**National Trust Car Park, Victoria Road, Formby Easting (x) 327456
Northing (y) 408235**

- 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 Richard Pearse (National Trust) against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2022/02146, dated 9 November 2022, was refused by notice dated 6 July 2023.
 - The development proposed is Coastal Adaptation Works Comprising Dune Restoration & Car Park Relocation.
-

Decision

1. The appeal is allowed. Planning permission is granted for Coastal Adaptation Works Comprising Dune Restoration & Car Park Relocation at National Trust Car Park, Victoria Road, Formby, Easting (x) 327456 Northing (y) 408235 in accordance with the terms of the application Ref DC/2022/02146 dated 9 November 2022 subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Richard Pearse (National Trust) against Sefton Metropolitan Borough Council. This application is the subject of a separate decision.

Main Issues

3. The first main issue is whether the proposal would be inappropriate development in the Green Belt including the effect of the proposal on the openness of the Green Belt having regard to the Framework¹. The second main issue is the effect of the proposal on the character and appearance of the area with regard to tree loss.

Reasons

Green Belt

4. The appeal site is within the Green Belt. For the purposes of paragraph 155 of the Framework, the car park could be considered an engineering operation.

¹ National Planning Policy Framework 2023.

5. The Framework advises that with regard to proposals affecting the Green Belt, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
6. At paragraph 155, the Framework advises that certain forms of development, including engineering operations, are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it.
7. My attention has not been drawn to any development plan policy relating to the Green Belt, rather I have been directed to the Framework. It is in relation to its requirements that I have considered the proposal against in terms of the Green Belt.
8. A fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The assessment of openness requires a consideration of both spatial and visual aspects.
9. The area where the car park is proposed is set down slightly, and although there would be some infilling of the ground which would result in raising of the existing ground levels, the car park level would remain similar to the level of the surrounding landform. Further, some tree screening would remain. These factors would limit the perception of bulk associated with the engineering operations associated with the provision of the car park.
10. As a result, the proposal would preserve the openness of the Green Belt and would not conflict with the purposes of including land within the Green Belt. The scheme would not therefore represent inappropriate development within the Green Belt.

Trees

11. It is clear that the site is popular with visitors, and although only a snapshot in time the beach was busy and it was clear that many people had accessed the site by car. The car park was well occupied and many cars were parked along its access road.
12. The evidence indicates that the existing car park is built on demolition rubble and that natural dune movement leads to regular sand inundation of the car park as well as erosion of waste materials upon which the car park is built. It is suggested that car parking spaces will be lost year on year.
13. I was able to observe waste materials on my visit which provided a rather incongruous backdrop to those enjoying the beach and dunes. Further, the proposals involve a substantial scheme of dune restoration which over time would increasingly benefit the biodiversity of the site. The proposals for the car park would secure a better experience for visitors to the site in the medium term.
14. I accept that the number of trees that would be lost from the site would be high. There would therefore be some harm to the character and appearance of the area. However, the wider area close to the coast is extensively wooded and many of the mixed broadleaved trees are individually of low value in terms of form and condition.

15. The harm to visual amenity would generally be localised to views close to and around the proposed car park and as such the adverse visual impacts would be limited.
16. I afford substantial weight to the benefits of the proposal which has merits as a thoroughly considered scheme to address a particular problem effecting this particular site. On that basis, the tree loss proposed would not be unacceptable.
17. I do not therefore consider that the proposal would conflict with part 7.a of Policy EQ9 of the Sefton Local Plan (2009) (SLP) which states that development proposals must not result in unacceptable loss of existing trees or woodlands.
18. There would however be conflict with part 7.b of Policy EQ9 which states that proposals must replace any trees lost as a result of the development at a ratio of 1:1 within the site. There would also be conflict with Policy ESD7 of the Formby and Little Altcar Neighbourhood Development Plan (NDP) which states that amongst other things new development should not result in the net loss of trees or woodlands and that trees lost as a result of development should be replaced at 1:1 ratio.

Other Matters

19. I note that significant levels of concern have been expressed with regard to the access to Freshfield Caravan site. However, there appears to be provision for a link within the bounds of the appeal site to the track to that site, although I noted at the time of my visit that the track was blocked with sand. Whilst noting those concerns, the issue of access to that site is beyond the scope of this appeal.
20. There is nothing to indicate that the proposals would have any unacceptable impact on biodiversity interests including red squirrels and bats. There is nothing to indicate that asbestos removal cannot be safely managed.

SAC, SPA and Ramsar Sites

21. The evidence indicates that the site sits within the Sefton Coast Special Area of Conservation (SAC) and The Ribble and Alt Estuaries Ramsar site. The Ribble and Alt Estuaries SPA is closely to the west. The evidence also suggests that without mitigation the proposal would damage or destroy interest features for the which the Sefton Coast Site of Special Scientific Interest (SSSI) has been notified.
22. The qualifying features of the Sefton Coast SAC primarily relate to the mixed dune habitats supporting great crested newt and petalwort, whilst the other qualifying features of the other sites principally relate to the wide range of breeding and non-breeding bird populations.
23. The proposal would involve a large degree of activity and works within and within close proximity to the sites and could therefore result in impacts on the designated sites which could include but not be limited to direct noise or visual disturbance to birds, impact upon prey species, change in water quality, physical damage and habitat loss, direct damage to or loss of habitat, air quality impacts and other direct impacts. An impact pathway is therefore present.

24. Therefore, adopting the precautionary principle, and in the absence of any evidence to the contrary, I consider that as a result of the proposal, likely significant effects on the protected habitats sites cannot be ruled out.
25. I am therefore required to carry out an Appropriate Assessment. The works that would take place would be likely to have a detrimental impact on the populations and habitats present as a result of disturbance to habitat. As such, the favourable conservation status of supported species would not be likely to be maintained. The development would be likely to have a detrimental impact on the delivery of the sites objectives, adversely affecting their integrity.
26. However, detailed mitigation measures are proposed, which are conditioned. On the basis that these measures are implemented and followed, the proposals will not, either alone or in combination with other plans and projects, have an adverse effect upon the integrity of the relevant sites nor damage or destroy interest features for the which the SSSI has been notified. The SNCB have been consulted and consider the scheme ecologically sound.

Environmental Impact Assessment

27. An Environmental Statement was produced in accordance with the 2017 EIA Regulations. I have taken this into account in considering this appeal. The statement considered the topics of Ecology and Nature Conservation, Construction Noise and Air Quality in detail.
28. Significant impacts on biodiversity were not predicted. It concluded that the levels of noise and vibration predicted would be within the acceptable limits for occupants of nearby dwellings and for sensitive bird species. No significant impacts were identified with regard to noise and dust either during the construction or operational phase of the development. Comments have been sought from statutory consultation bodies and these and other comments have been taken into account. Mitigation measures are included within the conditions set out below.

Conditions

29. Conditions one, two and three are necessary to define the consent. Conditions two, four, five, six, seven, twelve, thirteen, nineteen, twenty and twenty one are necessary to protect biodiversity interests at the site. Condition six is also necessary in the interests of the living conditions of nearby occupiers. Condition eight is necessary to safeguard retained trees on site in the interests of the character and appearance of the area. Conditions nine, ten, eleven, fourteen, fifteen, seventeen and eighteen are necessary in the interests of highway safety. Condition sixteen is necessary in the interests of promoting more sustainable forms of travel.
30. Plan P10217-00-001-GIL-0400 Rev 03 'Planting Plan' – identifies and area for provision of mitigation planting area 1.66Ha coloured light green. However, the evidence indicates that woodland plantation does not support the conservation objectives of SAC qualifying species and should not be provided. No replacement planting is therefore sought or required via condition relating to that mitigation planting area.

Planning Balance and Conclusion

31. The scheme would not represent inappropriate development within the Green Belt. There would be some limited harm to the character and appearance of the area and there would be conflict with Policy EQ9 of the SLP and Policy ESD7 of the NDP.
32. However, I afford substantial weight to the benefits of the proposal which outweigh the harm identified. Considerations indicate that a decision should be made otherwise than in accordance with the development plan. The appeal is therefore allowed.

T Burnham

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
- 2) The use of the relocated car park hereby permitted shall cease and the land be reinstated to its original condition on or before 1st January 2049 in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority. Reinstatement shall be carried out in accordance with the approved scheme.
- 3) The development shall be carried out in accordance with the following approved plans;
 - 1:13202 Location Plan
 - P10217-00-001-GIL-0100 Rev 06 'Indicative General Arrangement'
 - P10217-00-001-GIL-0105 Rev 02 'Indicative Car Park General Arrangement'
 - P10217-00-001-GIL-0106 Rev 00 'Car Park Maximum Parameters'
 - P10217-00-001-0202 Rev 01 'Indicative Sections'
 - P10217-00-001-GIL-0400 Rev 03 'Planting Plan' – Excluding the provision of mitigation planting area 1.66Ha coloured light green.
 - P10217-00-001-GIL-0104 Rev 02 'Car Park Proposed Levels'
 - M16034-A-005 Rev A 'Refuse Vehicle Swept Path Analysis'
 - 60621196-ACM-VR-XX-DR-DR-200001 Rev P03 'Proposed Drainage Strategy Drainage Areas'
 - 60621196-ACM-VR-XX-DR-DR-200002 Rev P03 'Proposed Drainage Strategy Drainage Layout'
 - 60621196-ACM-VR-XX-DR-DR-200004 Rev P02 'Typical Drainage Details'
- 4) Prior to any decommissioning or restoration works taking place following the cessation of use of the relocated car park a full decommissioning & restoration plan must be submitted to and approved in writing by the Local Planning Authority. The approved plan must then be adhered to during the decommissioning of the car park and restoration of the site.

- 5) No development, clearance or other works shall commence within Area A on Simply Ecology Plan 'Sand Lizard Sensitive Areas and Proposed Staged Working (June 2023), until it has been cleared of Sand Lizards under Licence issued by Natural England, a copy of which must be submitted to the Local Planning Authority prior to the translocation works commencing.
- 6) 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 but shall not be limited to the following:
 - Noise and visual avoidance and minimisation measures to cover all activities associated with the proposal (for protected species and sensitive receptors)
 - Pollution prevention measures (for air, soil & water from dust and other materials from activities)
 - Reasonable Avoidance Measures for amphibians and reptiles around the working areas and construction routes within the site
 - Details of industry standard biosecurity measures for all machinery and standard construction industry pollution and invasive species control measures
 - Details of where machinery/materials will be stored
 - Details of where vehicles and machinery will be refuelled
 - Details of any stockpiling locations
 - Details of protection zones around areas of retained habitat, and how they will be secured
 - Details of site clearance processes before construction works begin to check for SAC distinctive species within the working area.
- 7) Prior to the commencement of development, the details of a monitoring programme of qualifying bird species and their behaviour by an Ecological Clerk of Works (ECoW) must be submitted to and approved in writing by the Local Planning Authority. The monitoring programme must include details of how significant disturbance will be measured and set out what further mitigation measures will be implemented (if required).
- 8) No equipment, machinery or materials shall be brought onto the site for the purposes of the development until details of all fencing for the protection of trees, hedges, and other landscape features, including its location and type have been submitted to and approved in writing by the Local Planning Authority. The fencing shall be erected in accordance with the approved details, and shall be maintained until all equipment,

machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made at any time.

9) No development shall commence, including any works or demolition, until a Construction Period Access/Car Parking Management Plan has been submitted to, and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period and shall include the following:

- Details of temporary information signs.
- Details of temporary directional signs.
- Temporarily covering existing car park and destination directional signs.
- Details of how continued pedestrian/cycle access is provided and managed during the works.
- Details of any additional physical measures used to manage and control access.

10) No development shall commence, including any works of demolition/excavation, until a Highways Construction 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.

11) Prior to the first use of the relocated car park a detailed scheme of highway works together with a programme for their completion shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- Provision of two permanent Traffic Information Variable Message Signs on the Formby Bypass.
- Provision of Car Park Capacity Variable Message Signs on the main accesses to both the Victoria Road and Lifeboat Road car parks.
- A review of all existing directional and car park signs for the National Trust, including the renewal/update of all existing signs.
- Provision of additional directional signs between the Victoria Road car park and the Lifeboat Road car park.

The relocated car park shall not be brought into use until the required highway works have been constructed in accordance with the approved details.

12) No tree, shrub or hedgerow felling, or any vegetation management and/or cutting operations shall take place during the period 1st March to 31st August inclusive. If works are required within this time period then a suitably qualified ecologist must survey the trees for evidence of any active nests. If a bird nest in current use is discovered then an appropriate 3m stand-off around the nest must be created until after the nest has been vacated.

13) The implementation of the Himalayan Balsam and Japanese Knotweed treatment programme as set out in the approved Outline Construction

Environmental Management Plan shall be undertaken during the construction of the development. The invasive species shall be removed from the working area and temporary stand-off fencing shall be used to ensure the species are adequately controlled, and measures shall be used to limit any spread to the rear of the site.

- 14) The relocated car park shall not be brought into use until a Permanent Car Parking Management Plan comprising of immediate, continuing and long term details on how the car park will be managed including pay and display details, how the car park traffic will be controlled when the car park is nearing and at capacity, details on how public information will be provided including the provision of Car Park Capacity Variable Message Signs has been prepared, submitted to and approved in writing by the Local Planning Authority. The car park management shall then be carried out in accordance with the approved plan.
- 15) The car park area hereby approved shall not be opened for use until all spaces have been marked/allocated and all necessary signage and directional markings within the car parking area provided.
- 16) The replacement car park hereby approved shall not be operated until facilities for the secure storage of cycles have been provided for use in accordance with details to be submitted to and approved in writing by the Local Planning Authority. They shall be retained for the lifetime of the development thereafter.
- 17) The relocated car park shall not be used until a detailed scheme of Sefton Coastal Footpath signage works together with a programme for their completion has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the required signage works have been constructed in accordance with the approved details.
- 18) The relocated car park shall not be used until a detailed scheme of footpath improvement 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 resurfacing of the existing footpath into the site from Victoria Road from its junction with Victoria Road to the existing entrance kiosk. No part of the development shall be brought into use until the required works have been constructed in accordance with the approved details.
- 19) The replacement car parking area hereby approved shall not be operated until a scheme and appropriate scaled plan identifying suitable locations on the site for the erection of bird nesting boxes and bat boxes together with a timetable for implementation has been submitted to and approved in writing by the Local Planning Authority. The approved scheme of nesting and bat boxes shall be installed in accordance with the approved details and timetable and retained for the lifetime of the development.
- 20) The car parking area hereby approved shall not exceed a capacity of 237 spaces.

- 21) Excavator operation and movements on the frontal dunes, during the construction phase, shall not be undertaken 1 hour either side of high tide between 1st October and 31st March.



Costs Decision

Site visit made on 2 April 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2024

**Costs application in relation to Appeal Ref: APP/M4320/W/23/3331280
National Trust Car Park, Victoria Road, Formby Easting (x) 327456
Northing (y) 408235**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Richard Pearse (National Trust) for a full award of costs against Sefton Metropolitan Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for Coastal Adaptation Works Comprising Dune Restoration & Car Park Relocation.
-

Decision

1. The costs application is refused.

Reasons

2. The Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour on a substantive or procedural basis has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The claimant considers that the Council has behaved unreasonably in their decision making on this proposal. Whilst noting claims about the Sefton Planning Committee members site visit, there is nothing to persuade me that members were not fully aware of issues at the site. Further, the details of the committee meeting that are before me are limited. There is nothing in principle wrong in members coming to an alternative conclusion to Council officers. Ultimately, it appears on the basis of the refusal reason that the committee considered the loss of trees at the site were not outweighed by the benefits of the proposal.
4. Whilst that is not a position that I have agreed with, as can be seen within the decision letter, arriving at that position was, in the end, a planning judgement that could reasonably have been made. It is not therefore demonstrated that the Council has behaved unreasonably.

Conclusion

5. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

T Burnham

INSPECTOR