

Appeals Received and Decisions Made

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Appeals received and decisions made between [23 September 2024](#) and [24 October 2024](#)

Appeal Decisions

[43 Blundell Road Hightown Liverpool L38 9EF](#)

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

High Hedge Complaint

Procedure: Written Representations

Start Date: 08/04/2024

Decision: Dismissed

Decision Date: 07/10/2024

[25 Botanic Road Southport PR9 7NG](#)

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

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

Procedure: Written Representations

Start Date: 14/05/2024

Decision: Dismissed

Decision Date: 03/10/2024

[Land To East Of A565 Formby Bypass Formby L37 7HN](#)

Reference: DC/2023/02092 (APP/M4320/Z/24/3341533)

Advertisement consent for the display of 2No. non-illuminated hoarding signs

Procedure: Householder Appeal

Start Date: 23/05/2024

Decision: Allowed

Decision Date: 23/09/2024

New Appeals

[Land At 45 Ormskirk Road Aintree Liverpool L9 5AF](#)

Reference: DC/2024/00387 (APP/M4320/Z/24/3351599)

Advertisement Consent for the replacement of existing externally illuminated paper billboard with 2 No. LED digital billboards

Procedure: Householder Appeal

Start Date: 18/10/2024

Decision:

Decision Date:

[Grass Verge Where Warren Road Meets Serpentine South Blundellsands](#)

Reference: DC/2024/00677 (APP/M4320/W/24/3350601)

Prior notification procedure for the installation of 1no. 20m Hutchinson street pole, with 6no. VF antennae and 1no. VF 300mm dish, 3no. cabinets and ancillary equipment.

Procedure: Written Representations

Start Date: 04/10/2024

Decision:

Decision Date:

Appeals received and decisions made between [23 September 2024](#) and [24 October 2024](#)



Appeal Decision

Site visit made on 4 September 2024

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 October 2024

Appeal Ref: APP/HH/2152

Hedge at 43 Blundell Road, Hightown, Liverpool L38 9EF

- The appeal is made under section 71(3) of the Anti-social Behaviour Act 2003 (the Act).
 - The appeal is made by Mrs Edna McDonald and Mrs Clare Hughes (the hedge owners), against a Remedial Notice (RN) issued by Sefton Metropolitan Borough Council.
 - The complaint, reference BLC/016354/01661453 is dated 7 February 2023.
 - The RN is dated 25 April 2023.
-

Decision

1. The appeal is dismissed, and the remedial notice is varied and corrected as set out in the attached corrected and varied remedial notice.

Preliminary Matter

2. The plan attached to the RN shows the mature *Leylandii* trees (the hedge) at No 43, subject of this appeal as a blue line, which extends beyond the detached garage at 41 Blundell Road, Hightown, Liverpool L38 9EF (the complainant) to the rear boundary. I saw at my site visit that this was incorrect. The hedge extends beyond the single storey rear projection at No 43 but does not extend beyond the front elevation of the detached garage, I will therefore correct the RN by substituting a new plan showing the actual extent and position of the hedge. This would cause no injustice to either the hedge owner or the complainant. I will deal with this appeal on the basis of the corrected plan.
3. The initial action in the RN is set out as staged cuts to achieve a height of 3.07 metres (m) above ground level. While a RN can specify that a hedge is reduced in stages and suggest a timetable for the reduction, individual dates for staged cuts cannot be enforced. It is only the final action of staged cuts that can be enforced if the works are not completed by the end of the compliance period. I will therefore vary the initial action to remove reference to 12 months in paragraph (ii). I will also vary the compliance period to a single period of 16 months and add an informative relating to the suggested timings of the staged cuts. These variations would cause no injustice to either the hedge owner or the complainant.
4. The preventative action requires the height of the hedge to be reduced to the initial action height whenever the hedge reaches a height of 3.57m above ground level. It is for the hedge owner to decide how far they choose to reduce the hedge. The preventative action should therefore relate to a height that should not be exceeded and not specify the reduction amount. I will vary the preventative action to not exceeding 3.57m above ground level. This would cause no injustice to either the hedge owner or the complainant.

Main issues

5. The main issues of this appeal are: The effect of the hedge height upon the reasonable enjoyment of the occupiers of No 41 and whether the terms of the RN are appropriate and reasonable.

Reasons

6. The RN relates to a hedge growing along the northern side boundary of No 43, which in turn is shared with No 41, forming their side boundary also. No 41 is located in a northerly direction from No 43, and both properties comprise detached houses. There is a small change in levels between both properties, with No 43 being sited on raised land by approximately 0.3m.
7. A high hedge is defined in the Act, as so much of a barrier to light or access as is formed wholly or predominantly by a line of two or more evergreen or semi-evergreen trees or shrubs and rises to a height of more than 2m above ground level. The Council visited No 41 on Friday 10 March 2023, the height of the hedge was measured at approximately 5.4m, with an effective length of 15m. Above a height of 2m in height there are no significant gaps and it forms a barrier to light and access. Consequently, the hedge subject of this appeal forms a high hedge.
8. Following receipt of the complaint the Council carried out a full appraisal based on the amenity value of the hedge and the reasonable enjoyment of No 41 by its occupiers. Loss of daylight and sunlight to a property that is caused by the height of a neighbour's hedge is normally deemed to be unreasonable if the hedge is growing above the Action Hedge Height (AHH). The Council assessed the impact of the hedge on sunlight and daylight obstruction by using the AHH as calculated according to the methodology formulated by the Building Research Establishment in Hedge Height and Light Loss, published by the Government in October 2005. This publication sets out the formula for calculating loss of light to habitable room windows and gardens.
9. The hedge owner does not dispute the Council's calculations, which includes the measurement for the garden depth and the compass direction of the hedge from the complainant's garden, which is south. Additionally, no other calculations have been provided to the contrary. The overall AHH for the garden of No 41 was calculated at 3.57m. At the site visit the hedge was measured and it was established that due to growth, the hedge is now taller than when the Council undertook its original site visit, in line with the expected growth rate.
10. I have taken into account the initial concerns of the complainant with regards to the reasonable enjoyment of No 41, particularly the rear garden. There is no objective method for assessing the impact of a hedge on the visual environment and thus it is a matter of judgement for the decision maker, based on the circumstances of the case. In the government publication High Hedges Complaints: Prevention and Cure (May 2005) it provides guidance on visual amenity, where paragraph's 5.84 and 5.87 are of particular relevance.
11. With this guidance in mind, I find the excessive height of the hedge unacceptably harms the visual amenity of the complainant's property due to the dominance of the hedge within the rear garden of No 41. However, I find that a reduction of the height and its maintenance at a height of 3.57m or below, as required by the RN, would result in a hedge that would not be overly

dominant and thus would create reasonable visual amenity within the garden of No 41 for the complainant.

12. Overall, I consider in the light of the evidence before me that the initial action and preventative action as varied and amended are reasonable requirements, which will ensure the complainant's reasonable enjoyment of their home and garden, by ensuring that they do not experience unacceptable light obstruction and overbearing/visually intrusive effects from the hedge. Consequently, I take the view that the Council undertook a fair and reasonable assessment of the complaint. The requirements of the RN in terms of the heights for initial and preventative action are appropriate and reasonable.

Other Matters

13. The Wildlife and Countryside Act 1981 (WCA) makes it illegal to disturb nesting birds or to damage or destroy their nests. The RN does not override the requirements of the WCA. I have therefore taken the potential impact on birds and other wildlife into account in my formal decision by ensuring that compliance with the notice can be outside the bird nesting season. Therefore, the compliance period is again 16 months from the operative date to allow for any seasonal considerations.
14. I note the concerns raised in relation to the requirements of the RN and the potential effect on the condition and aesthetic of the hedge, which includes a supporting letter from Deadwood Arborists. A RN cannot require works which would result in the removal of the hedge (section 69(3) of the Act). I have carefully considered these comments, taking into account the age of the hedge, the height of the hedge, the overall health and species that form the hedge and my own observations at the site visit. In this instance, I am confident that the hedge would be able to withstand the reductions set out in the RN with an ability to regenerate.
15. I am also satisfied that the terms of the RN would not result in unacceptable harm to the visual amenity value of the hedge or to the outlook of the hedge owner. I note the view from the hedge owners that the hedge provides privacy. However, given the other trees and vegetation in control of the hedge owners, the design and layout of their own garden and the overall distance and orientation between dwellings, I am satisfied that the RN would not result in an unacceptable loss of privacy for the hedge owners. Overall, I am satisfied that the RN requirements are the minimum necessary to address the harms identified to the complainant's reasonable enjoyment of their property.
16. I also note the concern of the hedge owners about the way that the Council handled the application, but this does not affect the merits of the case or form part of my consideration of this appeal.

Conclusion

17. Whilst I acknowledge the concerns of the hedge owner, in each case a balance must be made. In this case, there are no matters of sufficient weight to relax the requirements of the RN. I have concluded that the hedge does have an adverse impact on the reasonable enjoyment of the complainant's property through light obstruction and that it harms visual amenity, and the requirements of the RN are sufficient to overcome these harms. I have also taken the potential impact on birds and/or other wildlife into account in my

formal decision. The compliance period of 16 months would enable the staged works to be carried out outside of the nesting season.

18. For the reasons given above, I dismiss the appeal and hereby specify that the operative date of the RN shall be the date of this decision. I will also need to issue a revised and corrected RN as set out above in the Preliminary Matters.

W Johnson

INSPECTOR

**IMPORTANT: this Notice affects the property at
Hedge at 43 Blundell Road, Hightown, Liverpool L38 9EF**

ANTI-SOCIAL BEHAVIOUR ACT 2003

PART 8: HIGH HEDGES

REMEDIAL NOTICE

CORRECTED AND VARIED BY Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

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

1. THE NOTICE

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

The notice is sent because it has been decided that the hedge in question is adversely affecting the reasonable enjoyment of the property at 41 Blundell Road, Hightown, Liverpool L38 9EF and that the action specified in this notice should be taken to remedy the adverse effect and to prevent its recurrence.

2. THE HEDGE TO WHICH THE NOTICE RELATES

The hedge comprises Leylandii trees situated adjacent to the northern boundary of 43 Blundell Road, Hightown, Liverpool L38 9EF, forming part of the shared side boundary with 41 Blundell Road, Hightown, Liverpool L38 9EF and marked with a blue line on the attached plan.

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

3.1 Initial Action

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

The reduction of the height of the hedge identified on the attached plan with a blue line to a height not exceeding 3.07m above the level of the ground.

3.2 Preventative Action

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

That the hedge, identified on the plan attached to this notice be maintained at a height not exceeding 3.57m above ground level.

4. TIME FOR COMPLIANCE

The initial action specified in in paragraph 3.1 to be complied with in full

within 16 months of the date specified in paragraph 5 of this Notice.

5. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on the date of decision.

6. FAILURE TO COMPLY WITH THE NOTICE

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

- a. to take action in accordance with the Initial Action specified in paragraph 3.1 within the period specified in paragraph 4; or
- b. to take action in accordance with the Preventative Action specified in paragraph 3.2 by any time stated there,

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

Signed: *W Johnson*

Dated: 07 October 2024

Informative

It is recommended that:

The initial action specified in paragraph 3.1 is carried out in two stages. The first stage is a reduction in the height of the hedge to a height not exceeding 4.24m above ground level within 4 months of the date of this decision. The second stage is a reduction in the height of the hedge to a height not exceeding 3.07m above ground level within 16 months of the date of this decision.

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

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

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



Plan

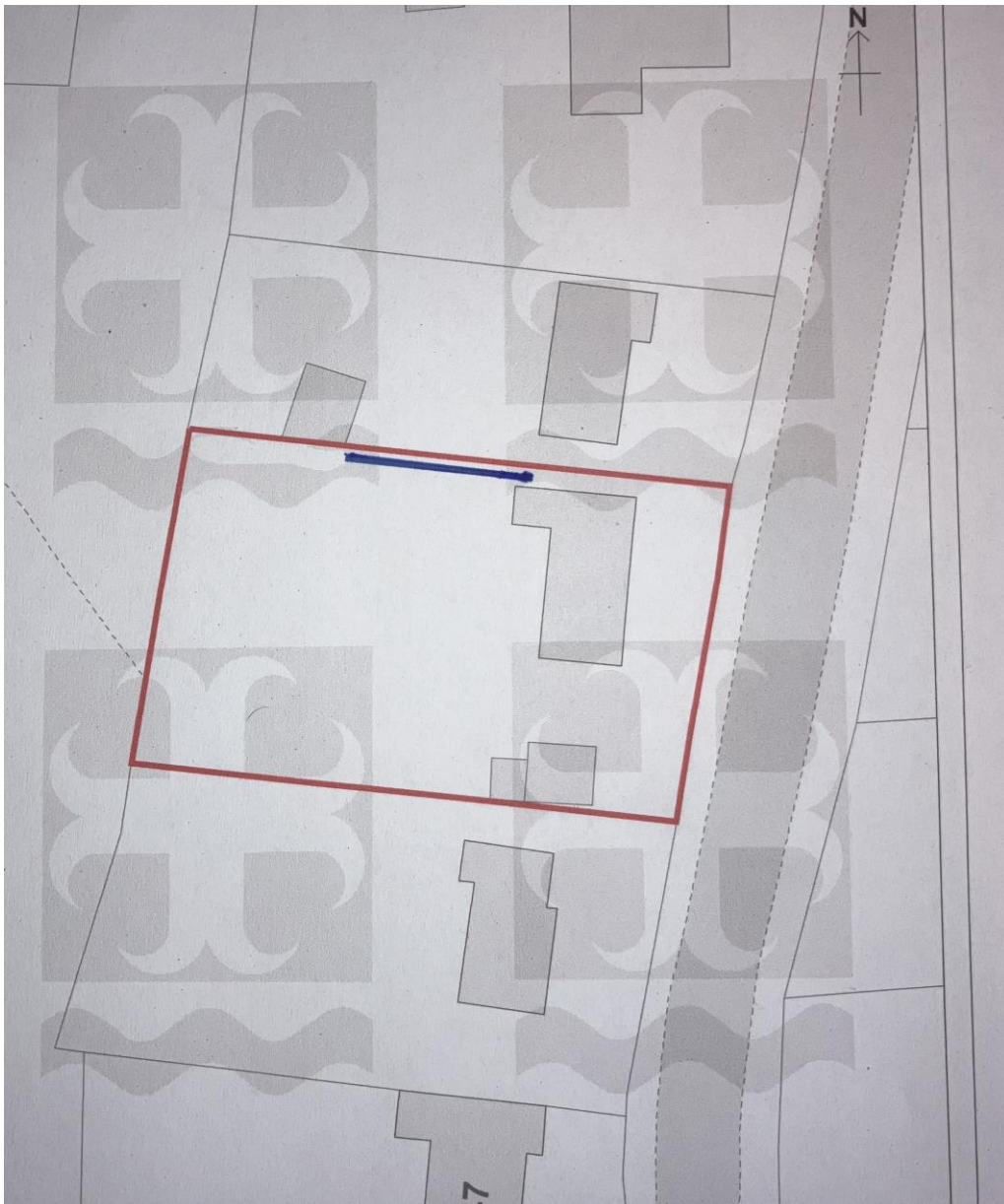
This is the plan referred to in my decision dated: 07 October 2024

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

Hedge at: 43 Blundell Road, Hightown, Liverpool L38 9EF

Reference: APP/HH/2152

Scale: Not to scale





Appeal Decision

Site visit made on 17 September 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd October 2024

Appeal Ref: APP/M4320/W/24/3339834

25 Botanic Road, Southport, Sefton PR9 7NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Miss Stephanie Brough of Little Sparks Southport Limited against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2023/00374 was approved on 1 September 2023 and planning permission was granted subject to conditions.
 - The development permitted is removal of condition 7 and variation of conditions 8 and 9 pursuant to planning permission DC/2021/02153 approved on 22/03/2022 to allow the rear garden to be used by customers/children, increase the opening hours to include the occasional Sunday from 10.00am to 16.00pm and increase the number of children on the premises to 20.
 - The condition in dispute is no. 4 which states that:
"The rear garden must not be used at any time by customers/children associated with the business operation."
 - The reason given for the condition is:
"To protect the living conditions of the neighbouring occupiers."
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission ref DC/2021/02153 is for the change of use of the property from a printers to a play based learning space/cafe (Class E). It is subject to several conditions, including condition 7 which states that the rear garden must not be used at any time by customers/children; condition 8 relating to the permitted opening times; and condition 9 restricting the maximum number of children. A Section 73 application to remove condition 7 and vary conditions 8 and 9 was granted in September 2023. Although the Council varied conditions 8 and 9 to extend the opening times and increase the maximum number of children permitted, it did not remove condition 7 but instead re-imposed it as condition 4. The appellant seeks to remove this condition so that the rear garden can be used by customers and children.
3. Therefore, the main issue is the effect that the removal of the condition would have on the living conditions of neighbouring occupiers, with particular regard to noise and disturbance.

Reasons

4. The appeal site is a two-storey property which operates as a play café. It includes a single storey rear extension beyond which there is a rear garden.

- The surrounding area is of mixed character with a range of different uses nearby, including dwellings, a takeaway, retail premises and a church.
5. The rear garden of the appeal property is bordered by neighbouring residential properties. It is particularly close to the rear elevations of 3 and 5 Churchgate which are separated from the site by a narrow pathway/patio areas. These properties both contain rear windows and doors facing directly towards the garden of the appeal property. The rear gardens of 21, 23 and 27 Botanic Road and 7 Churchgate are also within close proximity.
 6. During my site visit I observed that the rear garden of the appeal property is an enclosed and quiet space with the only discernible noise being vehicles passing along Botanic Road. While only a snapshot in time, I have no reason to suppose that this situation was not representative of the typical noise environment in the area.
 7. It is unlikely that the outdoor play space would be in constant use by the maximum number of children permitted at the premises. However, taking into account the confined nature of the rear garden and its proximity to the nearby properties and their gardens, the concentration of a potentially large number of children within this space, even if they were supervised, would cause significant harm to the neighbours' living conditions, by way of noise and disturbance. The impact would be exacerbated during warmer weather when the neighbours are more likely to have their windows open or spending time in their gardens. The effects would be particularly harmful to the occupiers of Nos 3 and 5 given their proximity and orientation towards the site.
 8. While the appellant's business model is to use the outdoor space for a limited number of sessions of specified duration each day, and the number of children would be restricted to a maximum of 15, this would still result in potential noise and disturbance from a large number of children for around three and a half hours per day in an otherwise relatively quiet environment.
 9. The appellant's noise report has assessed the external noise level in the garden and concludes that likely noise levels at neighbouring properties would be within the World Health Organisation (WHO) Guidelines for Community Noise. However, it is possible that children could at times be closer to No 3's window than the 5m distance quoted in the report, and the noise levels at this property may therefore have been underestimated. Moreover, the predicted noise level outside No 3 would still be around a level that would indicate 'moderate annoyance' according to the WHO guidelines.
 10. The findings of the noise report are predicated on the fences around the garden being maintained to a high standard, ensuring there are no gaps. The low fence to the rear of Nos 3 and 5 is unlikely to sufficiently mitigate noise. Raising the height of the fence on this boundary could provide noise mitigation but in turn would lead to an enclosing effect on the rear windows and patios of Nos 3 and 5, resulting in a loss of outlook to these properties. Consequently, the noise report does not provide sufficient clarity and robustness to enable me to conclude that the neighbours' living conditions would be protected.
 11. Accordingly, I find that the disputed condition is necessary to safeguard neighbouring occupiers' living conditions and ensure that the proposal complies with Policy EQ4 of A Local Plan for Sefton (2017) and paragraph 135

of the National Planning Policy Framework, which seek to protect the amenity of neighbouring occupiers including in respect of noise.

Other Matters

12. The rear garden is currently overgrown and untidy, but it could be improved and maintained without being used for outdoor play. I sympathise with the appellant's aim to sustain and grow their business which appears to be valued by members of the local community with children. However, these matters do not outweigh the harm I have identified.
13. I note the appellant's reference to other businesses in the local area that use their outdoor spaces. However, I do not have the details of the planning history of these, or their specific contexts, and the appeal property has a particularly close relationship with surrounding dwellings. Accordingly, the other examples referred to do not justify the harm in this case.
14. While some neighbours are in support of the proposed use of the rear garden, others have submitted objections. Therefore, this is not a determinative matter in favour of the proposal.
15. Although I acknowledge the appellant's frustration with the Council's handling of the application, this is a procedural matter which does not impact on my assessment of the planning merits of the case.

Conclusion

16. For the above reasons, I conclude that the removal of the condition is unacceptable and the appeal should, therefore, be dismissed.

M Ollerenshaw

INSPECTOR



Appeal Decision

Site visit made on 30 August 2024

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2024

Appeal Ref: APP/M4320/Z/24/3341533

Land to east of A565 Formby Bypass, Formby L37 7HN

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Sefton and Formby Developments Limited against the decision of Sefton Council.
 - The application Ref is DC/2023/02092.
 - The advertisement proposed is v-board sign formed by two billboards.
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Decision

1. The appeal is allowed and express consent is granted for the display of the v-board sign formed by two billboards at land to east of A565 Formby Bypass, Formby L37 7HN in accordance with the terms of the application, Ref DC/2023/02092. The consent is for 12 months from the date of this decision and is subject to the five standard conditions set out in Schedule 2 of the 2007 Regulations.

Preliminary Matters

2. The Town and County Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the Regulations) require that advertisement appeal decisions are made only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework and the Planning Practice Guidance confirm this approach. The Council's Reason for Refusal refers to Policy EQ11 Advertisements of a Local Plan for Sefton (2017) (LP) and, although not determinative to my decision, I have taken this policy into account as a material consideration.
3. At the time of my site visit, the advertisements subject to this appeal were already in situ and the appellant has confirmed that consent is sought for a temporary 12 month period, as opposed to the five years set out in Regulation 14(7)(b). I have determined the appeal on this basis.

Main Issue

4. The Council have not raised any objection to the proposals on public safety grounds and, from the evidence before me, I see no reason to disagree. Therefore, the main issue in this case is the effect of the advertisements on amenity.

Reasons

5. The appeal site is to the east of the A565 Formby Bypass and comprises part of a hedgerow and landscape buffer which runs broadly parallel to the carriageway and adjoining footway. Two non-illuminated advertisement hoardings have been erected in a v-shaped arrangement, displaying commercial agency marketing details associated with wider land that is allocated for employment development in the LP. The advertisements are set on legs anchored to a concrete base (so around 2m from ground level) and are around 2.3m high by 5.8m wide.
6. I observed on my site visit that although the rear of houses to the west, on Bull Cop and Gardner Road, are glimpsed, this section of the Formby Bypass (between the Southport Road roundabout and the Altcar Road junction) is characterised principally by highway infrastructure. This includes the dual carriageway itself, central reservation, grass verges, directional road signage and street lighting columns, with the Bypass lined by mature trees and hedgerows. There are breaks and gaps in this landscape margin in places, but wider views of the surrounding area I found to be largely contained, or restricted. Because of this, I did not observe an open, flat lying rural landscape to be a defining visual characteristic or feature of the appeal site.
7. In this location, alongside a busy dual carriageway, views of the advertisements are fleeting, or momentary, from a moving vehicle. Pedestrians on the footway alongside the dual carriageway (particularly on the east side) would experience the advertisements for a longer period of time, but they are viewed at a high level (above, and behind, the hedgerow), alongside the highway infrastructure I describe, and are seen in the context of fast moving vehicles.
8. Despite their scale, notably their width and elevated position above the ground, and appearance of being of permanent construction, I found the advertisements were not unduly prominent in this location and assimilate well within the context of the Bypass. Accordingly, I conclude that the advertisements do not cause harm to the visual character of the roadside or harm the amenity of the area, particularly given they would be in situ only for a further 12 months.
9. I have taken into account LP Policy EQ11 which requires proposals for advertisements to respect the scale of and be sympathetic to their immediate surroundings and not dominate buildings, streetscenes and open areas. Given I have concluded that the advertisements do not harm amenity, they do not conflict with this policy.

Conclusion

10. For the reasons set out above, I conclude that the appeal should be allowed, subject to the conditions set out in the Regulations.

R. Jones

INSPECTOR