



**Case Officer**

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Application documents and plans are available at:

<https://pa.sefton.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SHYHH8NWL3Z00>

## Site Location Plan



## The Site

The application site is approximately 0.98 ha in area and is located on the corner of Pendle Drive and Gorse Lane (B5422) in Litherland. There are three buildings located on the site, all of which are vacant. The remainder of the site comprises overgrown landscaping, areas of derelict hardstanding and redundant fencing.

The surrounding area consists of low-rise residential housing with a small shopping parade at Bowland Drive, located to the north of the application site on the opposite side of Pendle Drive. The southern boundary of the site is bordered by open grassland with a public footpath, which is part of the Rimrose Valley Country Park.

## History

There are no relevant previous planning permissions. The planning applications, which have been submitted are minor in nature and relate to site works associated with the current community/office use of the site.

The buildings on the site have been used by the Council, including Children's Services. The site is on the Council's Brownfield Land Register (ref: B0159).

## Consultations

### Highways Manager

The Highways Manager has commented on the proposed layout, car & cycle parking, proposed access, MASA, Travel Plan, and off-site highways works. The Highways Manager has recommended that until the traffic modelling for the signalised junctions is re-run and found satisfactory, approval of the application is not recommended at this stage. However, planning conditions are recommended in relation to off-site highways works, retention of visibility splays, cycle parking, a travel plan, construction traffic management plan and clearing mud off the highway.

### Environmental Health Manager

#### Noise

No objections. Recommend conditions in relation to the details of the acoustic fencing and a lighting assessment.

#### Air Quality

No objections.

#### Contaminated Land

No objections. Recommended that a site investigation is required and other conditions.

**Merseyside Environmental Advisory Service**

Appropriate mitigation is required in relation to 10% Biodiversity Net Gain and loss of habitat for breeding birds and bats. Recommend conditions in relation to, a lighting scheme, reasonable avoidance measures for protected species during construction, landscape planting and management plan and biodiversity net gain plan.

**Local Planning Manager**

No objections. Loss of housing site is acceptable as sufficient flexibility in the Council's housing supply and the retail assessment finds that the application is consistent with the National Planning Policy Framework (NPPF) and Local Plan Policy ED2 'Retail, Leisure and Other Town Centre Uses'.

**Canal And River Trust**

No objections.

**Tree Officer**

No objections. Recommend a condition to ensure landscaping as set out in the approved plan is maintained for 5 years from completion of development.

**Fire Officer**

No objections. Comments have been provided, in relation to the requirement for access to fire appliances, which can be dealt with under different legislation and the proposal should comply with Section 55 of the County of Merseyside Act 1980.

**Flooding & Drainage Manager**

No objections. Drainage scheme should be included as a condition, so that it is constructed prior to occupation.

## Neighbour Representations

A pre-application consultation exercise was carried out by Aldi with local residents in advance of the planning application being submitted in August 2024. The local planning authority sent out 31 letters to the surrounding residents, a site notice and press notice were also published on 2<sup>nd</sup> and 11<sup>th</sup> September 2024. A further site notice and press notice were also published to advertise that the proposal was a 'departure' from the local plan. There was separate communication with some Councillors and Sefton and Lunt Parish Councils, and a Statement of Community Involvement has been submitted with this application.

12 neighbour representations were received all of which are supportive of the proposal.

All statutory duties were fulfilled in terms of the consultation process.

## Policy Context

The application site lies within an area allocated for housing site ref: MN2.38 'Land at Pendle Drive, Netherton' in the Sefton Local Plan which was adopted by the Council in April 2017.

## Assessment of the Proposal

The application is for the erection of a foodstore (use class E), which is proposed with a Gross External Area (GEA) of 2,007 sqm, a Gross Internal Area (GIA) of 1,915 sqm and a net sales area of 1,356 sqm. A new vehicular access/egress is proposed from Pendle Drive and there are 123 car parking spaces proposed. The application also provides details of the servicing arrangements, hard and soft landscaping, and the demolition of the structures on the site. The main issues to consider are the principle of development, the impact on highway safety, the impact on adjoining occupiers, the design, the ecology requirements, drainage, contaminated land, mineral safeguarding, and employment skills.

### 1.0 Principle of Development

1.1 The application site is allocated for new housing site ref: MN2.38 'Land at Pendle Drive, Netherton' in the Sefton Local Plan. Whilst the proposal would result in a loss of a housing site (indicative capacity for 29 homes) it is considered that the loss of the site for 29 homes would be marginal.

1.2 The proposal is for a town centre use, in an out-of-centre location. In accordance with Local Plan Policy ED2 'Retail, Leisure and Other Town Centre Uses', the proposal required both a retail impact and sequential assessment. The applicant has submitted a retail assessment that covers both impact and sequential assessment. This has been reviewed by the Council's retained retail consultants. They have concluded that:

*'In respect of the sequential approach to development, we have reviewed all the sites identified by the applicant and do not believe that any are both available and suitable to accommodate the application proposal, even allowing for appropriate flexibility. We are unaware of any other sequential sites offering realistic potential to accommodate the proposal and, as such, find that it accords with the requirements of paragraphs 91 and 92 of the NPPF. It also accords with the sequential test set out at Local Plan Policy ED2'*

1.3 The adopted Local Plan identifies that an impact threshold of 500 sqm applies to the site. Given the size of the proposed store, this means there is a formal requirement to consider retail impact in determining the application. The assessment has concluded:

*'In respect of the first impact test, we are unaware of any relevant in-centre investment which could be prejudiced by the application proposal.'*

*In terms of the second part of the impact test, the most notable in-centre trade diversion will occur from Netherton local centre (and its Iceland store most particularly). We have undertaken a revised 'sensitivity test' to understand the likely level of trade diversion from this store and have considered the current vitality and viability of Netherton. Based on this, we are satisfied that there would be no 'significant adverse' impact arising as a consequence of this development.'*

1.4 The applicant identifies in paragraph 7.4 of their Planning & Retail Strategy that an adverse impact should be weighed in the planning balance in determining the application. The Council's retained consultants have commented that:

*'On this basis, the Council can consider the diversion of trade away from Netherton local centre to be a negative impact capable of being weighed in the balance. Conversely, it is also relevant that the application site is relatively distant from defined centres and that the proposal will provide a moderate beneficial impact in supporting a discount foodstore in this part of the Litherland area (and thereby reducing the need to travel for some local residents). The improvement in customer choice is a positive contribution in accordance with paragraph 94 of the NPPF.'*

1.5 Therefore, taking the above into account the application proposal accords with paragraphs, 91, 92 and 94 of the National Planning Policy Framework (NPPF) and Local Plan Policy ED2 'Retail, Leisure and Other Town Centre Uses'. The loss of a site allocated for housing is not considered to be critical to the Council's housing land supply. The proposal is therefore acceptable in principle subject to complying with other Local Plan Policies, Supplementary Planning Documents, and material considerations, which are discussed below.

## **2.0 Highway Safety**

2.1 The proposal has been supported with a Transport Assessment and Technical Note, which has been assessed by the Highways Manager. The assessment, of the junction, has not been carried out based on the actual signal timing data, so the traffic modelling is required to be re-run. It is anticipated that there would be a significant increase in pedestrian crossing demand at the junctions, because of the proposed development, bearing in mind car ownership in the surrounding area is low. Also, consideration needs to be given to a new right-turn lane from Gorse Lane to Pendle Drive.

### Transport Assessment

2.2 The proposed development and future performance of the junctions have been assessed in the Transport Assessment (TA). While the junctions studied appear to be operating well under the current conditions, as indicated above, the operation of Pendle Drive/Gorse Lane in capacity terms will be exacerbated by the proposed development in future, if additional measures are not implemented. Therefore, the Highways Manager recommends that the application implements an additional measure by way of introduction of Microprocessor Optimised Vehicle Actuation (MOVA) at Pendle Drive/Gorse Lane for improved control of the traffic light signals. This will provide

further information to inform the final design of the traffic light signals at the junction of Pendle Drive/Gorse Lane.

### Site Access

2.3 The site is to be accessed and egressed from a new access to be formed to Pendle Drive at a location east of the existing access to the electricity substation. The access is provided to a width of 7.0m with 10m corner radii based on tracking of 16.5m long articulated vehicle stated to be the longest vehicle likely to frequently enter/egress the site. The required visibility splays of 2.4m x 43m can be achieved at the proposed site access.

2.4 The new access should include dropped kerbs and tactile paving on both sides, as stated in the TA, and the existing vehicle access will require reinstatement through a Section 278 agreement under the Highways Act 1980.

2.5 The proposed site plan also shows there would be a new 3.0m wide pedestrian access formed to Gorse Lane and Pendle Drive, which provides pedestrian links across and outside the site, therefore linking the site into the wider area.

### Internal Layout

2.6 The proposed layout shows the proposed foodstore located on the southern half of the site with parking on the northern half. Servicing is proposed to the west of the store, where the vehicle tracking shows that there is adequate width for safe manoeuvring of articulated and refuse vehicles.

2.7 The proposed site layout plan also shows that the footway along the south side of Pendle Drive will be extended on both sides of the new vehicle access into the site with internal access roads/driving aisles provided to a width of 7.0m, which is in excess of the standard width of 6.0m specified by the Council. The layout incorporates informal zebra crossings to ensure safe pedestrian crossing of the internal access roads.

### Parking

2.8 The proposed site layout shows the provision of 123 car parking spaces, comprising 103 regular spaces, 8 disabled spaces, 8 parent and child spaces and 4 electric vehicle charging spaces. Although, the overall parking provision is 4 less than the standard requirement, the Highways Manager confirms it is acceptable.

2.9 The proposal also includes 6 motorcycle bays, 7 covered short-stay bicycle parking spaces for customers and long stay bicycle parking spaces (located within the store's warehouse) for staff. There are two drop off spaces proposed for taxis shown to the front of the store.



## Minimum Accessibility Standard Assessment

2.10 The Transport Assessment (TA) includes a Minimum Accessibility Standards Assessment (MASA), which is used to assess the extent to which a development is accessible by all modes of transport including walking, cycling and use of public transport and whether the development meets the requirements of the Council's Local Plan Policy EQ3 'Accessibility'.

2.11 There are footways on both sides of Gorsey Lane and Pendle Drive with street lighting and there are controlled pedestrian crossing points at Gorsey Lane/Pendle Drive. There are no Public Rights of Way (PROW) in the immediate vicinity of the site, but the unadopted footpath along the south boundary of the site is widely used as a link between Gorsey Lane and the Rimrose Country Park in the west.

2.12 The MASA submitted shows the target score for walking is met in terms of safety of pedestrian access in and out of the site, proximity of the site to housing, internal layout of the site and the availability of pedestrian facilities to ensure external connectivity.

2.13 Gorsey Lane is an on-road cycle lane/bus lane that connects other cycle routes in the area including The National Cycle Routes 810, Kirkdale Road West and Kirkdale Road North. The MASA shows the target score for cycling is met as cyclists would be able to safely turn in and out of the site within short distance of the junction of Gorsey Lane and Pendle Drive. The proposal also includes on-site cycle storage.

2.14 Gorsey Lane, Pendle Drive and Bowland Drive are bus routes and there are bus stops within acceptable walking distance to the west of the site on Pendle Drive and to the north of Bowland Drive. There are bus stops, within acceptable walking distance of the site in both directions on Gorsey Lane with frequent and regular services provided.

2.15 The MASA target for public transport has not been met. However, the amendment to the existing TRO to remove a section of the existing Bus Lane near the junction of Pendle Drive and Gorsey Lane will ensure that there is safe and suitable access for all users and would contribute towards achieving the required MASA target score in respect of Access by Public Transport. This measure required under TROs can be implemented and enforced under the Road Traffic Regulation Act 1984.

## Travel Plan

2.16 The applicant has submitted a Framework Travel Plan (FTP) seeking to promote use of sustainable transport modes such as walking, cycling and public transport; and to manage any impacts of the proposed development on the highway network. The submitted FTP is acceptable but a full Travel Plan must be developed in the timescales outlined in the action plan in the FTP. It is recommended that the details of the full Travel Plan are included in the Section 106 legal agreement.

### Off-site Highways Works

2.17 The applicant has agreed to implement off-site highway improvements requested by the Highways Manager including:

-Improvements to Pendle Drive/Gorse Lane and Gorse Lane/Edge Lane/Fleetwood Lane traffic signal junctions including installing Microprocessor Optimised Vehicle Actuation (MOVA) at Pendle Drive/Gorse Lane for improved control of the traffic light signals.

-Installation of new right turn lane on Gorse Lane at its junction with Pendle Drive including carriageway widening and alterations to existing footways on Gorse Lane adjacent to the signal junction.

2.18 It is recommended that the off-site highways improvements are included in a Section 106 legal agreement. The measures required under TROs can be implemented and enforced under the Road Traffic Regulation Act 1984, and therefore do not need to be included as conditions.

2.20 The Highways Manager has recommended that until the traffic modelling for the signalised junctions is re-run and found satisfactory, approval of the application is not recommended at this stage. This is a point of detail, and it is therefore, recommended that this issue is delegated to the Chief Planning Officer to finalise the highways requirements. This will include appropriate conditions to ensure that the proposal complies with Local Plan Policy EQ3 'Accessibility'.

### **3.0 Impact on Adjoining Occupiers**

3.1 The site is surrounded by residential development to the west, north and east of the site. The proposed building is located more than the 21m minimum distance required, from all the surrounding residential properties and therefore the proposed building will not have a harmful impact on the living conditions of the surrounding residents.

3.2 The increase in traffic on site and on the adjoining junctions has been assessed as part of the Transport Assessment, which was submitted with this application and is discussed in the section above. The Highways Manager has recommended that a condition is included requiring that a Construction Traffic Management Plan is submitted prior to commencement, to ensure that the impact on the adjoining occupiers and road is kept to a minimum. Therefore, it is not considered that this proposal will have a harmful impact on the living conditions of the surrounding residents.

### Air Quality

3.3 The proposal has been supported by an Air Quality Assessment. The Environmental Health Manager agrees that with the implementation of the mitigation measures identified in the report the impact of the construction/demolition phase dust emissions will not be significant.

3.4 A road traffic emissions assessment was also undertaken to consider the impact of potential road traffic generated by the proposal. The modelling assessment was undertaken, and the development is not predicted to exceed the relevant air quality objectives and the impact of the development with regard to air quality objectives is predicted to be negligible.

3.5 A revised Dust Management Plan (DMP) has been provided, which is considered acceptable, and it is recommended that it is included in the list of approved documents. The proposal therefore complies with Local Plan Policy EQ5 'Air Quality'.

### Noise

3.6 The proposal has been supported by a Noise Impact Assessment (NIA). The Environmental Health Manager agrees with the methodology and conclusions. It is not anticipated that noise from deliveries, external plant and equipment or the car park would have an adverse impact on the living conditions of nearby residents. However, it is recommended that the final approved boundary treatment should show the close boarded fence intended as an acoustic screen to include a minimum surface density of 10kgm<sup>-2</sup>. This can be secured by a condition. This will ensure that the residents have added protection from any potential noise sources from the building and within the site. With the inclusion of the condition the proposal complies with Local Plan Policy EQ4 'Pollution and Hazards'.

### Lighting

3.7 It is recommended that a lighting assessment is provided; this can be secured by a condition. The assessment should include the maximum limits based on the Institute of Lighting Professionals Guidance Note GN01/21 The Reduction of Obtrusive Light (for an Environmental Zone 3).

3.8 In addition to the lighting assessment being required to ensure that surrounding residents are protected from any light pollution, the Merseyside Environmental Advisory Service (MEAS) comment that the habitats on site within the adjacent Local Wildlife Site may provide roosting, foraging, commuting habitat for bats as well as other wildlife. Lighting for the development may affect the use of these areas. It is recommended that a lighting scheme is designed so that it protects ecology and does not result in excessive light spill onto the habitats in line with NPPF (paragraph 186). The lighting assessment and details of a lighting scheme can be secured by conditions. With the inclusion of the recommended conditions the proposal complies with Local Plan Policy EQ4 'Pollution and Hazards' and NH2 'Nature'.

## **4.0 Design and Character of the Area**

4.1 The proposal has been supported by a Design and Access Statement, which explains the development of the scheme. The proposal comprises a new foodstore with a Gross External Area (GEA) of 2,007 sqm, a Gross Internal Area (GIA) of 1,915 sqm and a net sales area of 1,356 sqm.

4.2 The proposed store is located to the south of the site and has active frontages from key vantage points, with the principal elevations facing both Gorsey Lane and Pendle Drive. There are pedestrian routes across the site, linking into Gorsey Lane and Pendle Drive. The proposed layout is designed to reflect ALDI's company philosophy and branding, which is a contemporary style.

4.3 The proposed store would comprise a combination of charcoal brickwork plinth, anthracite grey microrib cladding and metallic silver microrib cladding. The principal facades utilise metallic silver trapezoidal cladding as the primary material broken up with anthracite grey features, including expansive glazing and a canopy to highlight the store frontage.

4.4 The proposed landscaping scheme has retained the trees where possible and where trees have been lost then these are proposed to be replaced, along the edges of the site, along Gorsey Lane and Pendle Drive. The details of this are discussed below. The proposed boundary treatment includes the retention and improvement of the existing hoop top fence and the brick walls that run adjacent to Pendle Drive and Gorsey Lane. It is also proposed to include a close boarded timber fence, which would be 2.4m in height. The Environmental Health Manager has requested that this is an acoustic fence, which is discussed above. A 2.4m high palisade fence is proposed to enclose the plant at the rear of the proposed store.

4.5 The proposal is considered to be acceptable in design terms. The plans, which include details of the materials, can be listed in the condition referring to the approved plans and documents. Therefore, taking all the above into account, the proposal complies with Local Plan Policy EQ2 'Design'.

### Energy Efficiency and Sustainability

4.6 The Design and Access Statement included details of the store's heating system. A heat recovery system using a refrigerant-to-air heat-exchanger is proposed, which would provide 100% of the heating for the store. The proposed store is to include the provision of solar panels to the roof structure. These proposals combined with the provision of the electric vehicle charging points complies with Local Plan Policy EQ7 'Energy Efficient and Low Carbon Design'.

## **5.0 Ecology Requirements**

### Ecology, Trees and Landscaping

5.1 To address Biodiversity Net Gain (BNG) the application has been accompanied by a BNG Metric, plus a proposed landscaping plan. The metric was updated to include identified urban trees and other neutral grassland. The BNG identified within the landscape plan is not considered to be a significant enhancement. There is the potential to provide some BNG within the site, which includes wildflower grasslands, however as this is 'non-significant' then a Section 106 legal agreement is not required to monitor this.

5.2 The Government guidance is that if it is non-significant it is not required to be managed and monitored for 30 years. However, the Merseyside Environmental Advisory Service (MEAS) have recommended a condition for a Landscape Planting Management Plan to be provided as there is some on site provision, even if it is small scale, and it is contributing towards meeting the BNG requirement. There will be a requirement to provide some off-site mitigation to achieve the required 10% increase in biodiversity levels.

5.3 The details of the off-site provision would need to be provided, once finalised. By including a condition for a Landscape Planting Management Plan to be submitted, for the on-site provision, the Council can ensure that any planting is appropriate. It would also require the applicant to provide evidence on how it would be managed as a habitat. This information would be required prior to commencement to be able to discharge the BNG condition, which is included on all decisions where 10% BNG is required.

5.4 The development will require the removal of three category B, seven category C and nine category U individual trees, with six groups of B and C trees also requiring removal. The majority of the trees being removed on the boundary of the site are category U trees, and a couple of category B and C trees are also proposed to be removed. The Council's Trees and Woodland Officer has confirmed that they would not meet the criteria for a Tree Preservation Order and the larger number of trees being removed are within the site, which have little public amenity.

5.5 The proposed landscape plan shows the number of trees being removed can be replaced with suitable species and this plan could be included as part of the approved documents list. It is recommended that a condition is included to ensure that if any trees or landscaping dies within 5 years as set out on the landscape plan then this is replaced in the next planting season.

5.6 MEAS have confirmed that the revised landscaping plan, which has amended the planting to be suitable for red squirrels, including the removal of the Hazel, within the planting scheme, is now acceptable.

### Bats

5.7 The application has been supported by an ecology report, which MEAS have assessed and highlighted some limitations, as the entire southwest aspect and parts of the northern aspect on Building B2 were obscured from clear sight by dense bramble and mixed scrub. As a result, these aspects of the building were not subject to the bat survey. Since that assessment was carried out the bramble and scrub has been removed and a further inspection of the building has taken place. The findings include that the building has a tin roof, which is not insulated, which is not considered to be a suitable habitat for bats. Following the removal of the dense vegetation a vent was also revealed, however, given it was hidden by the dense vegetation then it is unlikely to have been used by bats.

5.8 To compensate for the loss of the habitat it is recommended that bat boxes are provided within the site. This can be secured by condition; therefore, the proposal complies with Local Plan Policy NH2 'Nature'.

## **6.0 Drainage Requirements**

6.1 The application has been supported by a Sustainable Drainage Strategy (2<sup>nd</sup> August 2024) and a Sustainable Drainage Proforma. The drainage drawings were slightly amended, which included the omission of the pumping station. The Lead Local Flood Authority (LLFA) have not raised any objections.

6.2 It is recommended that a condition is added to ensure that the scheme is fully constructed prior to occupation in accordance with the approved details, phasing and timetable embodied within the Sustainable Drainage Strategy. The proposal complies with Local Plan Policy EQ8 'Flood Risk and Surface Water'.

## **7.0 Contaminated Land**

7.1 The application has been supported by a Phase 1 Geo-environmental Assessment (Hydrock 1<sup>st</sup> August 2024) and a Phase 2 Ground Investigation (Hydrock 1<sup>st</sup> August 2024).

7.2 Various contaminants were identified on the site including from :

- Localised Made Ground deposits, associated with historic demolition works;

- a former tank in south of the site; and

- ground gases (carbon dioxide and methane) from localised Made Ground and recorded peat deposits.

7.3 The following contaminants were identified as potential off-site sources of contamination:

- Electricity sub-station to north-west-given the age of the substation constructed in the circa 1970s, it is plausible that this contains transformer oils with a polychlorinated biphenyl (PCB) content.

7.4 The site boundary indicated in the report is smaller than the proposed site plan submitted as part of the application and reference to the historic maps in the report, has missed key features that fall within the proposed site boundary. There is a potential source of localised contamination where a tank has been removed in the past. There is also a former well on the site, which would need to be located to determine whether it requires filling and/or capping. This would require further investigation, which could be secured by a condition.

7.5 The Phase 2 Ground Investigation also missed key features within the site. Due to the sampling location from the electricity substation, it cannot be concluded that there is no PCB contamination associated with the electricity substation and further investigation is required. Further investigation of the former tank on the site, will also be required.

7.6 The soil chemical analysis results do not identify elevated concentrations of contaminants of concern against the adopted generic assessment criteria (GAC) for commercial end use. In addition to this no asbestos fibres were detected within any of the samples of Made Ground or topsoil; therefore, the assessment concludes that the risk to human health from receptors is considered to be low.

7.7 The gas monitoring programme is still on-going. Once the ground gas monitoring has been completed the updated ground gas risk assessment will need to be submitted.

7.8 It is recommended that conditions are included for further investigations, the submission of a remediation strategy, a verification report and the reporting of any unexpected contamination if found. The proposal complies with Local Plan Policy EQ6 'Contaminated Land'.

## **8.0 Minerals Safeguarding**

8.1 A section of the site is located in a Mineral Safeguarding Area. The application is supported by a Minerals Assessment (Hydrock, August 2024) in accordance with Local Plan Policy NH8 'Minerals'. This has concluded that the need for minerals below the site to be safeguarded or worked on in advance of the proposed development of the site is not warranted. This complies with the requirements of Local Plan Policy NH8 'Minerals'.

## **9.0 Employment Skills**

9.1 The application has been supported by a Local Labour and Skills Plan. It states that there will be between 40-50 jobs created once the store is operating. There is also acknowledgement that the construction of the proposed store would require the services of local building trade contractors, which will provide jobs for local people.

9.2 To ensure that local job opportunities are secured, it is recommended that should permission be granted an Employment Skills and Development Plan be secured as part of a Section 106 legal agreement, which will ensure that the applicant works jointly and collaboratively with Sefton Council. This is to maximise the access for local people to job and skills opportunities, the provision of trainee places, the advertising of employment opportunities for local residents, ensure that the appointed contractor will aim to provide trainee places and ensure opportunities are provided for local individuals and local businesses created while the new development is being built as well as once the development is completed.

## **10.0 Section 106 Legal Agreement Requirements**

10.1 A legal agreement will be required to ensure that an Employment Skills and Development Plan is provided, as well as a Travel Plan, which shall be provided and updated accordingly. It is also recommended that the recommended off-site highways work, are included in a legal agreement. A Section 278 agreement under the Highways Act 1980 shall also be required.

10.2 There is the potential to provide some Biodiversity Net Gain (BNG) within the site, which includes wildflower grasslands, which will require specific establishment and maintenance. There is a requirement for a detailed Management and Monitoring Plan to be submitted, which covers the management of this habitat within the site for 30 years to be provided, which can be included in a Section 106 agreement. There is also the requirement for BNG to be provided off-site, the details of this will need to be provided, as set out by the statutory BNG condition.

## **11.0 Planning Balance and Conclusion**

11.1 The site has been allocated for housing purposes in the Sefton Local Plan (2017) and is listed on the Council's Brownfield Register. However, there have not been any applications submitted to develop the site for housing and it is not considered the loss of a potential housing site is critical to the Council's housing land supply

11.2 The proposal will bring economic benefits through job creation during construction and operational stages and bring development on a brownfield site, in a prominent location, which has been vacant/derelict for a while.

11.3 The development would have an impact on the highway network, however subject to a number of highways improvements, it is considered that the proposal would not cause harm to highway safety.

11.4 Overall the proposal complies with the Sefton Local Plan, and in the absence of any other material considerations, the application is recommended for approval subject to the conditions and the completion of a Section 106 legal agreement. However, as the Highways Manager has recommended that the application is not approved until the traffic modelling for the signalised junctions is re-run, it is recommended that this issue is delegated to the Chief Planning Officer to secure the necessary highways requirements.

## **12.0 Equality Act Consideration**

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

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;



- Advance equality of opportunity between people who share a relevant protected characteristic (age, disability, race, gender reassignment, marriage and civil partnership, pregnancy and maternity, religion and belief, sex and sexual orientation) and people who do not share it;
- Foster good relations between people who share a relevant protected characteristic and those who do not share it.

12.2 The decision to approve this scheme would comply with the requirements of the Equality Act 2010, that no one with a protected characteristic will be unduly disadvantaged by this development.

**Recommendation - Approve with conditions & request for delegated authority to the Chief Planning Officer to finalise detailed highways requirements specifically in relation to the Gorse Lane/Pendle Drive junction, and subject to a Section 106 legal agreement in relation to highways works, a Travel Plan and an Employment Skills and Development Plan.**

**Conditions**

**Time Limit for Commencement**

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

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

**Approved Plans**

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

- Location Plan drawing no. 20033-THPM-XX-XX-DR-A 0100 rev A
- Proposed Site Plan drawing no. 20033-THPM-XX-XX-DR-A 0102 rev C
- Proposed Elevations drawing no. 20033-THPM-XX-XX-DR-A 0105 rev A
- Landscape Plan drawing no. 20033-SFW-XX-XX-DR-L 1001 rev P04
- Proposed Boundary Treatment drawing no. 20033-THPM-XX-XX-DR-A 0106 rev C
- Proposed Roller Shutter drawing no. 20033-THPM-XX-XX-DR-A 0107 rev A
- Construction Environmental Management Plan Including Demolition May 2024 Rev 1
- Dust Management Plan August 2024 Revision 2
- Transport Assessment including Framework Travel Plan

- Technical Note 4<sup>th</sup> October 2024 with drawing ref: 873-01/GA-01 rev A
- Air Quality Assessment July 2024 ref: 24426
- Noise Impact Assessment 29<sup>th</sup> July 2024 ref: 92446 Revision 01
- Flood Risk and Drainage Assessment ref: 33583-HYD-XX-XX-RP-C-0500 2<sup>nd</sup> August 2024
- Proposed Drainage Layout ref: 33583-HYD-ZZ-XX-DR 1000 Revision C02
- Sefton SuDs Pro-Forma August 2024
- Phase 1 Geo-Environmental Assessment ref: 33583-HYD-XX-XX-RP-DS-0001 1<sup>st</sup> August 2024
- Phase 2 Ground Investigation Report ref: 33583-HYD-XX-XX-RP-GE-0002 1<sup>st</sup> August 2024
- Ecology Report ref: 17070\_R01a\_LJ 13<sup>th</sup> September 2024
- BNG Metric 9<sup>th</sup> October 2024
- Arboricultural Impact Assessment August 2024
- Arboricultural Plan 1 of 3 drawing no. TCP/5113/Y/100
- Arboricultural Plan 2 of 3 drawing no. TCP/5113/Y/100
- Arboricultural Plan 3 of 3 drawing no. TCP/5113/Y/100
- Design and Access Statement 20033-DAS01C-Design and Access Statement 08/24

Reason: For the avoidance of doubt.

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

3) No part of the development permitted by this consent shall be occupied until a Section 106 Legal Agreement is entered into which binds the whole site, in the form attached to this permission.

Reason: For the avoidance of doubt.

4) No development shall commence, including any demolition works, 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.

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

5) No development shall commence until a preliminary investigation report has been submitted to and approved in writing with the Local Planning Authority. The report must include:

- Desk study
- Site reconnaissance
- Data assessment and reporting
- Formulation of initial conceptual model
- Preliminary risk assessment

If the Preliminary Risk Assessment identifies there are potentially unacceptable risks a detailed scope of works for an intrusive investigation, including details of the risk assessment methodologies, must be prepared by a competent person (as defined in the National Planning Policy Framework, December 2023). The contents of the scheme and scope of works are subject to the approval in writing of the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: The details are required prior to development or site clearance commencing to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

6) No development shall commence until the approved scope of works for the investigation and assessment of the site, which must be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority. The report shall include an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage. Remediation shall proceed in accordance with the approved details.

Reason: The details are required prior to development or site clearance commencing to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

7) No development shall commence until a remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks and the relevant pollutant linkages identified in the approved investigation and risk assessment, has been submitted to and approved in writing by the Local Planning Authority. The strategy must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and roles and responsibilities. The strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 on completion of the development. The remediation strategy must be carried out in accordance with the approved details at all times.

Reason: The details are required prior to development or site clearance commencing to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8) Prior to construction works commencing should piling be necessary a methodology, which provides justification for the method of piling chosen and details of noise and vibration suppression methods proposed, must be submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented throughout the course of development.

Reason: In order to safeguard the living conditions of neighbouring residents and occupiers during the course of construction.

9) Prior to the commencement of development, a Landscape Planting Management Plan, which includes the details of the maintenance schedule of the landscaping as set out on approved plan Landscape Plan drawing no. 20033-SFW-XX-XX-DR-L 1001 rev P04 shall be submitted and approved in writing by the local planning authority. The agreed scheme shall be implemented throughout the course of development.

Reason: In relation to the Biodiversity Net Gain requirements.

#### **During Building Works**

10) The provisions of the hereby approved Construction Environmental Management Plan Including Demolition May 2024 Rev 1 and the Dust Management Plan August 2024 Revision 2 shall be implemented in full during the period of construction.

Reason: To ensure the safety of highways users, in the interests of public health and safety and to safeguard the living conditions of neighbouring residents and occupiers during the course of construction.

11) No tree, shrub or hedgerow felling, or any vegetation management and/or cutting operations shall take place during the period 1<sup>st</sup> March to 31<sup>st</sup> August inclusive. If it is necessary to undertake any works during the bird breeding season then all buildings, trees, scrub, hedgerows and vegetation are to be checked first by an appropriately experienced ecologist to ensure no breeding birds are present. If present, details of how they will be protected are required to be submitted for approval.

Reason: To protect birds during their breeding season.

12) The following Reasonable Avoidance Measures (RAMs) shall be adhered to at all times during the construction phase:

- A pre-commencement check for badger and hedgehog terrestrial mammals.
- Existing vegetation on the site will be gradually cut and removed to encourage any amphibians/reptiles/hedgehog present to move away from protected areas.

- The working area, together with the storage areas, will be kept clear of debris; and any stored materials will be kept off ground on pallets so as to prevent amphibians/reptiles/terrestrial mammals from seeking shelter or protection within them.
- Any open excavations (e.g foundations/footings/service trenches etc) will be covered with plywood sheeting (or similar) at the end of each working day. The edges of these sheets will be covered with a thick layer of topsoil or similar) to prevent amphibians/reptiles from seeking shelter beneath them. Any excavation must be in-filled and made good to ground level with compacted stone or similar at the earliest opportunity, so as to remove any hazard to amphibians/reptiles/terrestrial mammals.
- Any exposed open pipe systems should be capped to prevent mammals gaining access.

Reason: To protect common amphibian and reptile species and terrestrial mammals.

13) Prior to the erection of any external lighting, a light mitigation strategy, including measures to reduce light spillage onto foraging habitats for bats, shall be submitted to and approved in writing by the local planning authority. The mitigation strategy shall be implemented in accordance with the approved details and thereafter retained in perpetuity.

Reason: To safeguard conservation of species/habitats.

14) In the event that previously unidentified contamination is found at any time when carrying out the approved development immediate contact must be made with the Local Planning Authority and works must cease in that area. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which shall be submitted to and approved in writing by the Local Planning Authority. Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be included in the verification report required by condition 19.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

15) The development hereby permitted by this planning permission, including all components of the sustainable drainage system, shall be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy ref: 33583-HYD-XX-XX-RP-C-0500/Hydrock 2<sup>nd</sup> August 2024 and Proposed Drainage Layout ref: 33583-HYD-ZZ-XX-DR 1000 Revision C02. The approved scheme shall be fully constructed prior to occupation in accordance with the approved details, phasing and timetable embodied within the approved Sustainable Drainage Strategy.

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

16) The foodstore shall not be brought into use until details of the full specification of any close-boarded fence intended as an acoustic screen, including a minimum surface density of 10kgm<sup>-2</sup> are submitted and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full and retained throughout the lifetime of the proposal.

Reason: To safeguard the living conditions of neighbouring residents and occupiers.

17) The foodstore should not be brought into use until details of the proposed external lighting scheme including measures to reduce light spill onto adjoining residents and foraging habitats for bats are submitted and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full and retained throughout the lifetime of the proposal.

Reason: To safeguard conservation of bats in the area.

18) The foodstore shall not be brought into use until a scheme and appropriately scaled plan identifying suitable locations on the site for the erection of bat roosting boxes/bat roosting bricks and bird nesting boxes together with a timetable for implementation have been submitted to and approved in writing by the local planning authority. The approved scheme shall be installed with the approved details and timetable and retained throughout the lifetime of the proposal.

Reason: To safeguard the conservation of bats and birds in the area.

19) The foodstore shall not be brought into use until the full details of the totem sign (location shown on proposed Site Plan drawing no. 20033-THPM-XX-XX-DR-A 0102 rev C) are submitted to and approved in writing by the local planning authority.

Reason: In the interests of visual amenity.

20) Before any part of the development hereby permitted is occupied/brought into use a verification report that demonstrates compliance with the agreed remediation objectives and criteria shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, ecological systems, property and residential amenity and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

21) Before any part of the development hereby permitted is occupied/brought into use space shall be laid out within the site in accordance with drawing no. 20033-THPM-XX-XX-DR-A 0102 rev C for cars to be parked, for the loading and unloading areas, taxi drop off points and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available for the parking and servicing of vehicles in perpetuity thereafter.

Reason: To ensure that enough car parking is provided for the development and to ensure the safety of highway users.

22) The development shall not be occupied until facilities for the secure storage of cycles have been provided in accordance with details to be submitted to and approved in writing by the local planning authority and they shall be retained in perpetuity thereafter.

Reason: To ensure that enough cycle parking is provided for the development in the interest of promoting non-car based modes of travel.

### Ongoing Conditions

23) Within the first planting/seeding season following the completion of the development, all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other of similar size and species.

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

24) Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution

25) The 2.4m x 43m visibility splays shown on plan no. 873-01/GA-01 rev B shall at all times be maintained free of any obstruction exceeding 1.0 metre in height in perpetuity.

Reason: To ensure adequate visibility for those entering and exiting the site and to safeguard other highway users at all times.

### Informatives:

1) The applicant is advised that all works to the adopted highway must be carried out by a Council approved contractor at the applicant's expense. Please contact the Highways Development and Design Team at [HDD.Enquiries@sefton.gov.uk](mailto:HDD.Enquiries@sefton.gov.uk) for further information.

2) No development other than that required to be carried out as part of an approved scheme of remediation shall commence until conditions 5 and 6 above have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing, until condition 20 has been complied with in relation to that contamination. Contaminated land planning conditions must be implemented and completed in the order shown on the decision notice above.

3) A Traffic Regulation Order (TRO) for the introduction of No-Waiting at Anytime restrictions on both sides of Pendle Drive up to the entrance to the car park opposite the site on the north side and up to the entrance to the electricity sub-station on the south side is required. The restrictions are to extend into Bowland Drive on both sides for a distance of 10.0m from the edge of the carriageway of Pendle Drive and the existing TRO will require amending to remove a section of the existing bus lane near the junction of Pendle Drive and Gorse Lane. Please contact the Highways Development and Design Team on [HDD.Enquiries@sefton.gov.uk](mailto:HDD.Enquiries@sefton.gov.uk) for further information and to progress this process.

4) There is a requirement for the applicant to enter into a S278 Highways Act 1980 Legal Agreement to facilitate works to the adopted public highway. Please contact the Highways Development and Design Team on [HDD.Enquiries@sefton.gov.uk](mailto:HDD.Enquiries@sefton.gov.uk) for further information.

5) Biodiversity Net Gain (BNG).