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## Appeal Decision

Site visit made on 29 April 2025

**by Graham Wraight BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 10 June 2025**

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**Appeal Ref: APP/M4320/W/24/3355665**

**Land south of Heysham Road, Sefton**

**Easting: 336645 Northing: 398427**

- 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 Your Housing Group Limited against the decision of Sefton Metropolitan Borough Council.
  - The application Ref is DC/2023/00263.
  - The development proposed is an application seeking full permission for residential development with creation of site access including landscaping, parking, supporting infrastructure and other associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development with creation of site access including landscaping, parking, supporting infrastructure and other associated works at Land south of Heysham Road, Sefton in accordance with the terms of the application, Ref DC/2023/00263, subject to the conditions in the attached schedule.

### Main Issue

2. The main issue is whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to outlook.

### Reasons

3. The appeal site is a parcel of land positioned between existing industrial land uses to the north and the west and a railway line to the east. The Council does not dispute the findings of the technical reports provided by the appellant that acceptable living conditions could be provided for future occupiers with regard to noise, odour and air quality matters arising from the proximity of the proposed dwellings to the aforementioned land uses. They do however have concern as to the outlook that would be available from the proposed dwellings, primarily those closest to the western boundary of the appeal site.
4. The outlook from the rear elevations of several of those dwellings would be towards the industrial premises. This would include views of the buildings themselves, which are of no notable visual merit, and of a shared communal parking/yard area. The future occupiers of those properties facing the eastern site boundary would be likely to be visually aware of the passing trains, but there would be a substantial buffer provided which would ensure an outlook across a landscaped area. The proposed bund to the north would address matters arising from the presence of industrial uses in that direction, and there would be an

adequate separation distance between the properties facing that direction and the bund itself.

5. The absence of harm in terms of noise, odour and air quality along with the layout of the site and the measures such as the bund and the landscaped buffer represent significant mitigation against the proximity of the proposed dwellings to the non-residential uses. The impact from the outlooks towards the industrial premises and railway line would not, when the proposed scheme is considered as a whole, mean that unacceptable living conditions would be provided for the future occupiers of the proposed dwellings.
6. Consequently, the proposal would accord with Policies HC3 and EQ2 of the LP, where, taken together, they seek to protect the living conditions of the future occupiers of new residential properties. There would also be no conflict with the aims of the National Planning Policy Framework in the same regard.

### **Other Matter**

7. The appeal scheme proposes 54 dwellings on a site from which the Liverpool Bay SPA, the Mersey Narrows and North Wirral Foreshore SPA, the Mersey Narrows and North Wirral Foreshore Ramsar site, the Sefton Coast SAC, the Ribble and Alt Estuaries SPA and the Ribble and Alt Estuaries Ramsar are accessible by car and public transport. The Conservation of Habitat and Species Regulations 2017 require that the competent authority must ensure that there are no significant adverse effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SPA. The effects arising from the proposal need to be considered in combination with other development in the area, adopting a precautionary approach.
8. The Merseyside Environmental Advisory Service's (MEAS) Habitat's Regulation Assessment concludes that likely significant effects on the Liverpool Bay, Sefton Coast and Ribble and Alt Estuaries European sites cannot be discounted. This is specifically in terms of recreational pressure in combination with other developments. I find no reason to disagree with that conclusion.
9. The Information Note: Managing and mitigating the impact of recreation pressure on the Sefton Coast – Sefton's Interim Approach for housing development 2023 (IN) sets out an interim approach that reflects joint working with Natural England, MEAS, the other Liverpool City Region local authorities, the Mayoral Combined Authority, West Lancashire Council and the National Trust. It details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling alongside the distribution of a leaflet setting out information about the Sefton Coast. Since the mitigation measures include a range of habitat-based measures such as enhancing visitor facilities in less sensitive areas, education, communication and monitoring, and have been endorsed by Natural England, I am satisfied that the measures would adequately overcome any adverse effects of the proposal on the identified European sites. The financial contribution of £4,104 would be secured by the planning obligation submitted and the distribution of the leaflet could be secured by way of a planning condition.

### **Planning Obligation**

10. The parties have completed a Section 106 Agreement which includes a number of obligations to come into effect if planning permission is granted. Alongside the

mentioned contribution with regard to recreational pressure, the agreement contains an obligation to pay a sum of £37,386 as an open space contribution and a sum of £20,000 as a Maritime Corridor contribution. In terms of the former, this is to compensate for the loss of part of the existing area of open space to the new access road, in accordance with the requirements of the Open Space Supplementary Planning Document 2017.

11. The Maritime Corridor contribution would be put towards highway improvements in the surrounding area to ensure compliance with Policy EQ3 of the LP which seeks to improve accessibility in Sefton. The planning obligation also contains provision to secure the development as affordable housing, which is the basis on which the proposal is put forward. I am satisfied that each of the obligations meets the tests set out in Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended). Therefore, all of these obligations shall take effect as a requirement of the grant of planning permission, and all shall apply.

### Conditions

12. Conditions relating to the period to commence the development and setting out the approved plans are required to provide certainty. Conditions relating to land contamination investigation, remediation, validation and any unexpected contamination that is encountered are needed to ensure that land contamination matters are adequately addressed. A waste audit is needed to minimise waste during the construction phase. Approval of a Construction Environmental Management Plan is required to safeguard the living conditions of the occupiers of nearby dwellings and protected species during construction and a Highways Construction Management Plan in the interests of highway safety. Measures to protect mammals during construction should be subject to a condition and if piling is to be used during construction, details must be approved beforehand to protect the living conditions of nearby occupiers.
13. Details of proposed ground and floor levels are needed to protect the living conditions of the occupiers of nearby dwellings and the future occupiers of the proposed dwellings. Details of external facing materials are needed to ensure that the proposal has an acceptable visual appearance. Details of street lighting and lighting to the National Cycle Network are needed to ensure that acceptable lighting is provided. Boundary treatment details are required to ensure an acceptable visual appearance and to provide acceptable living conditions for existing and future occupiers. Details of acoustic glazing and ventilation are needed to ensure that acceptable living conditions are provided for future occupiers, given the adjacent uses.
14. The provision of tactile paving is needed at various junctions of Sentinel Way to ensure the safety of highway users. Conditions relating to the provision of parking spaces, pedestrian and vehicle visibility splays and that the access road is constructed to base course level before occupation of the dwellings are required to ensure that the necessary highways standards are met. Unless otherwise agreed, a Traffic Regulation Order should be put in place for a 20mph speed limit, in the interests of highway safety. Details of cycle storage are needed to promote sustainable modes of transport. Details of landscaping are needed in the interests of visual amenity along with a condition setting out when this should be undertaken and a provision for replacement planting. I have combined the two suggested conditions in that regard and added an additional condition relating to tree

protection to ensure that such protection is put in place before works commence. A Landscape Planting and Maintenance Plan is needed to set out the aims and objectives to provide the new habitat on the appeal site.

15. Details of the widening of the existing cycle link are required to allow for the approval of precise details of the works that are proposed as part of the submissions. Details of bird boxes are needed to safeguard the conservation of birds and a condition requiring the distribution of a leaflet setting out information about the Sefton Coast is needed to meet the requirements of the IN. A condition requiring the provision of the submitted surface water scheme is needed to ensure that this infrastructure is put in place. Details of a travel plan are needed to promote sustainable transport objectives.
16. The Preliminary Ecological Appraisal Report Volume 2 states that no invasive non-native species were identified within the site during the survey and therefore it is not necessary or reasonable to impose the suggested conditions relating to Japanese Knotweed. I have not been provided with details of planning policies relating to the provision of broadband and therefore do not impose a condition relating to this. Charging points for electric vehicles are now a requirement of Building Regulations and therefore do not need to be secured by way of a planning condition. The dwellings on plots 35 and 54 are not shown to have windows in their side elevations and therefore no condition is required relating to fixed obscure glazing.
17. The Council has provided a more recent consultation response which suggests that the requirements of Network Rail can be addressed under separate legislation between themselves and the developer. Therefore, no conditions are necessary in that regard.

### **Conclusion**

18. For the reasons given above, the appeal should be allowed.

*Graham Wraight*

INSPECTOR

## Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawings:
  - 001 B : Location Plan
  - 010 JJ : Proposed Site Layout
  - 012 M : Proposed External Works
  - 014 L : Management Plan
  - 015 H : Proposed Street Elevation
  - 018 B : Noise Bund Elevation
  - 101 C : Landscape Layout
  - 201 C : Planting Plan ( 1 of 2)
  - 202 A : Planting Plan (2 of 2)
  - 801-A B : Type A 2B4P House
  - 801-B B : Type B 2B4P House
  - 801-C C : Type C - 3B5P House
  - 801-D B : Type D - 3B5P House
  - 801-F C: Type F - 4B7P House
  - 801-N : Type N -4B5P House
  
  - ELL-21017-YH-B-700 E : Swept Path Analysis
  - ELL-21017-YH-B-1004 G : Cross Section 1 of 2
  - ELL-21017-YH-L-1005-F : Cross Section 2 of 2
  
  - WD-500 A : Flag on Edge and Dwarf Wall Details
  - WD-501 A : 1100mm Railing and Retaining Wall with Railing
  - WD-502 A: Masonry Wall Details
  - WD-503 A : Fencing Details
- 3) No development shall take place until an investigation and assessment of contamination on the site has been undertaken by competent persons in accordance with the Wardell Armstrong (March 2022) Site Investigation Report. Report Number: 002. Version: V2.0 and the Wardell Armstrong (February 2023) Supplementary Site investigation Report. Report Number

009. Version 1.1 and a written report of the findings has been 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.

- 4) No development shall take place 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 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, a 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. Development shall thereafter be carried out in accordance with the approved remediation strategy at all times.
- 5) Before any part of the development hereby permitted is occupied a verification report that demonstrates compliance with the agreed remediation objectives and criteria approved under condition 4 shall be submitted to and approved in writing by the Local Planning Authority.
- 6)
  - a) 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.
  - b) 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 5.
- 7) No development shall commence until full details of a waste audit has been submitted to and approved in writing by the Local Planning Authority. The measures contained within the approved waste audit shall be carried out in full for the duration of the excavation/construction activities.
- 8) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority.

The CEMP shall include:

- a. The proposed times construction work shall take place
- b. Wheel washing/road sweeping measures
- c. Measures to control the emission of dust and dirt during construction
- d. Measures to control the emission of noise during construction
- e. Details of external lighting to be used during construction
- f. The name and contact details of person(s) accountable for air quality and dust issues
- g. A programme for issuing information on construction activities to the occupiers of nearby dwellings



h. A site waste management plan

i. Details of any piling and the days and times when piling activity is proposed

j. No tree or scrub removal between 1 March and 31 August inclusive, unless informed by a suitably qualified ecologist in order to protect breeding birds

k. Reasonable Avoidance Measures for the protection of badgers and hedgehogs

The approved CEMP shall be implemented throughout the period of site remediation and construction.

- 9) No development shall take place, including any works of demolition, until a Highways Construction Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved management plan shall thereafter be adhered to throughout the construction period.
- 10) For the duration of the construction of the development:
  - All trenches and excavations shall have a means of escape (e.g. a ramp);
  - Any exposed open pipe systems shall be capped to prevent mammals gaining access; and
  - Appropriate storage of materials shall be undertaken to ensure that mammals do not use them.
- 11) Should piling be necessary, prior to construction works commencing a methodology which provides justification for the method of piling chosen and details of noise and vibration suppression methods proposed, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented throughout the course of development.
- 12) Notwithstanding condition 2, no dwelling shall be constructed until full details of the existing and proposed ground levels (referred to against Ordnance Datum) within the site and on land and buildings around the site by means of spot heights and cross sections, and proposed finished floor levels of all buildings and structures, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved level details.
- 13) No development above ground shall take place until details of the materials to be used in the construction of the external surfaces of the dwellings have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 14) No development above ground shall take place until a detailed scheme of street lighting on the proposed access road and footways within the development site and improvements to the existing lighting along the National Cycle Network (route No.61) where it runs through the site, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the development being brought into use.
- 15) Notwithstanding condition 2, prior to the first occupation of any dwelling, a plan indicating the positions, height, design, materials and type of boundary

treatment to be erected, including acoustic barriers to be provided within the site, shall be submitted to and approved by the Local Planning Authority.

Where acoustic fencing is not required, a gap of 13cm by 13cm shall be shown within the base of each length of boundary fencing serving the respective plot in order to maintain connectivity for hedgehogs. The boundary treatment shall be completed as approved before the dwellings are occupied and be retained thereafter.

- 16) Prior to the first occupation of any dwelling, full details of a scheme of acoustic glazing and ventilation for the approved dwellings shall be submitted to and approved in writing by the Local Planning Authority. The approved glazing and ventilation units shall be installed before the dwellings are occupied and be retained thereafter.
- 17) The development shall not be occupied until a detailed scheme of highway works together with a programme for their completion has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the introduction of tactile paving at the following junctions:

Sentinel Way/Merchant Close

Sentinel Way/Fenton Close

Sentinel Way/Hudswell Close

Sentinel Way/Parker Close

Sentinel Way/Watkin Close

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

- 18) No dwelling shall be occupied until space has been laid out within the curtilage of that dwelling for car(s) to be parked and that space shall thereafter be kept available for the parking of vehicles in perpetuity.
- 19) The development shall not be occupied until details of facilities for the secure storage of cycles have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out as approved and retained as such in perpetuity, with no individual dwelling being occupied until any approved cycle storage relating to it has been provided.
- 20) No dwelling shall be occupied until the access road shown on the approved plans has been constructed to the base course level to enable access to the dwellings.
- 21) Notwithstanding condition 2, no part of the development shall be occupied until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the species, size and location of all planting.

Within the first planting/seeding season following 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 date of planting are removed, uprooted or destroyed or die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with another tree or plant



- of the same species and size at the same place during the next planting season immediately following the death/removal/destruction of that tree or plant.
- 22) The development shall be undertaken in accordance with the Arboricultural Impact Assessment Version 3 and the Arboricultural Method Statement v1. The tree protection measures set out in those reports shall be put in place before any development commences and shall be retained as such throughout the period of construction.
  - 23) No dwelling shall be occupied until a Landscape Planting and Maintenance Plan (LPMP) has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of appropriate management options for achieving the aims and objectives including measures to meet the stated habitat, and a timetable for implementation. The LPMP shall be implemented in accordance with the approved details
  - 24) Unless otherwise agreed in writing, no part of the development shall be occupied until a Traffic Regulation Order (TRO) for a 20mph speed limit on the proposed access road within the development site has been implemented in full.
  - 25) Prior to the first occupation of any dwelling visibility splays of 2.4 metres x 25 metres at the new junctions shall be provided clear of obstruction to visibility at or above a height of 1metre above the carriageway level of the new development. Once created these visibility splays shall be maintained clear of any obstruction and retained for their intended purpose at all times.
  - 26) Prior to the first occupation of any dwelling visibility splays of 2.0 metres x 2.0 metres measured down each side of the access to that dwelling and the back edge of the footway shall be provided clear of obstruction to visibility at or above a height of 1 metre above the footway level of the new development. Once created, these visibility splays shall be maintained clear of any obstruction and retained for their intended purpose at all times.
  - 27) Unless otherwise agreed in writing, no part of the development shall be occupied until a scheme for a minimum 3 metre wide pedestrian/cycle link to the north end of the site near plot 35 has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the development being brought into use.
  - 28) The development hereby permitted shall not be occupied until details of bird boxes to include the number, type and location on an appropriately scaled plan, as well as the timing of installation, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details and the bird boxes shall be retained in perpetuity.
  - 29) Prior to the dwellings being occupied a colour copy of the leaflet setting out information about the Sefton Coast shall be provided to all first-time occupiers of the new homes. The leaflet has been produced by the Merseyside Environmental Advisory Service and has been approved by Natural England and may be made available in digital form to all first-time occupiers.

- 30) The drainage for the development hereby approved shall be carried out in accordance with drawing ELL-21017-YH-B-1010 Rev F, prepared by Elluc Projects. Surface water will only be permitted to drain directly into the 900mm public surface water sewer at 5 l/s. No surface water shall drain into the combined sewer either directly or indirectly. Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.
- 31) Within 6 months of 50% of the approved dwellings being occupied a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single occupancy car use shall be submitted to the Local Planning Authority for approval in writing. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan targets.

-----End of Conditions-----