



**PLANNING COMMITTEE: 20<sup>th</sup> APRIL 2023**

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**Report of: Corporate Director of Place & Community**

**Contact for further information:**

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**SUBJECT: PLANNING APPLICATION REF. 2022/1324/FUL**

**PROPOSAL: Erection of convenience store with associated access, car park and landscaping.**

**ADDRESS: Land at Junction Of Moss Road and Benthams Way, Halsall**

**REASON FOR CALL IN: Application has been called in by Cllr Hirrell to consider the impact of the extra traffic resulting from the development.**

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**Wards affected: Halsall**

## **1.0 PURPOSE OF THE REPORT**

1.1 To advise Planning Committee on an application which seeks planning permission for the erection of a convenience store with associated access, car park and landscaping.

## **2.0 RECOMMENDATION TO PLANNING COMMITTEE**

2.1 That the planning application is refused as the proposed development fails to comply with the requirements of the NPPF and policies GN2, RS6 and GN3 in the West Lancashire Local Plan 2012-27 and SPD - Design Guide.

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## **3.0 THE SITE**

3.1 The application site is located at the junction of Moss Road, Halsall and Benthams Way, which is situated within Sefton MBC. The site is a rectangular parcel of land which is currently an open field.

## **4.0 PROPOSAL**

- 4.1 The application proposes the erection of a retail convenience store with a footprint of 586 sqm. The main part of the building would have a dual pitched roof with a further section on the north-eastern side having a flat roof. Solar panels are proposed to be attached to the south-west elevation roof.
- 4.2 A new vehicular access onto Benthams Way is proposed that would lead to a car parking area comprising 24 parking bays, motorcycle bay and cycle stands. Three pedestrian entrances are proposed; one from Moss Road and two from Benthams Way.

## **5.0 PREVIOUS RELEVANT DECISIONS**

- 5.1 None

## **6.0 OBSERVATION OF CONSULTEES**

- 6.1 Arboricultural Officer (09/01/23)

I can confirm that I have no objections to the proposals. I would suggest a tree planting scheme is submitted and agreed to replace the visual amenity that will be lost by granting planning consent.

I do not think we need a full method statement but a Tree Protection Plan showing the exact location of the protective fencing on site and confirming that it will be installed prior to commencement and remain in situ and in tack until completion, will suffice.

- 6.2 LCC Highways (12/01/23)

Whilst the majority of the site is within West Lancashire the proposed site access and main access routes to the site are in and through Sefton therefore the development traffic impact will be on the Benthams Way which is not an LCC Highway and falls under the jurisdiction of Sefton Council.

I am of the opinion that the application would not have a material impact on the roads under the jurisdiction of LCC however I would recommend that you consult Sefton Council for their comments regarding the proposed access and the development traffic impact on their highway network.

Parking provision within the site should conform to the West Lancashire Local Plan recommendations.

- 6.3 MEAS (27/01/23)

The applicant has submitted an ecological report in accordance with Local Plan Policy EN2 which meets BS42020:2013:

The report states that no evidence of bat use or presence was found within the proposed site. The Council does not need to consider the proposals against the three tests (Habitats Regulations).

The development site is near to the national and international sites which are protected under the Conservation of Habitats & Species Regulations 2017 (as amended) and Local Plan policy EN2 applies.

I have considered the proposals and the possibility of likely significant effects on national and international sites using the source-pathway-receptor model. I

advise that there is no pathway that could result in likely significant effects on the national and international sites and the proposals do not warrant a Habitats Regulations Assessment

The proposed development is within the Natural England SSSI Impact Risk Zone (IRZ) (November 2022). As the proposed development falls within the category 'All Planning Applications' Natural England must be consulted on the planning application prior to determination. Conditions recommended

#### 6.4 Sefton MBC - Development Management - (01/02/23)

The Council's retail consultants have provided comments: We do not believe that there is a requirement for formal impact assessment in considering the proposal. Notwithstanding this it should be noted that the proposal is of modest scale and will trade against other small formal convenience stores in the area in addition to Aldi at Liverpool Rd in Birkdale. Of these only the Sainsbury's Local is within a defined centre (Birkdale). Due to the scale of the store and its location, the proposal will principally trade against out of centre destinations, and we do not envisage that there will be any unacceptable impacts arising within defined centres.

In terms of the sequential test, we have drawn our own five minute drivetime. Birkdale district centre is the only defined centre which lies within this area. We note the applicant has undertaken a search and has not identified any sequentially superior sites which could accommodate the proposal. Our own review leads to the same conclusion. Given the above we find that the proposal conforms with the requirements of the sequential test.

#### 6.5 Sefton MBC - Highways Development Design - (01/02/23)

Raise concerns regarding the content of the Transport Statement (TS) and the content of the proposal:

No details to justify trip generation figures meaning it is not possible to properly assess the possible impact the development will have.

The TS does not consider the impact the proposed site access will have on the mini-roundabout junction and vice versa. A full review will be required in order to properly assess the impact. As well as this a more detailed assessment of the proposed site access junction will also be required to be able to assess the suitability of the proposed priority junction. Assessment needs to be undertaken for the full period of 7am-7pm not just peak hours.

The main residential areas are to the west of Benthams Way and therefore the majority of pedestrian movement will come from this way. The TS suggests there are good pedestrian links and there are no proposals for improvement of these facilities. The pedestrian refuge is however smaller than the current design guides recommend and would not be considered sufficient to safely accommodate and level of increased pedestrian traffic, A review of the existing mini-roundabout junction and the proposed site access junction, improving pedestrian crossing facilities must be provided.

There are no pedestrian facilities to cross Benthams Way to the north of the site and given that the closest bus stops are to the north of the site as well as access and pick up/drop off facilities to the school, consideration must be given to improving pedestrian facilities across Benthams Way to the north of the site.

There is a bus stop on the north bound side of Benthams Way that will be opposite the site access which has not been considered within the TS. This must be reviewed.

There are no proposed pedestrian and cycle facilities included within the site access junction to continue along Benthams Way and the applicant has suggested the cycle lane should terminate to the north of the site. This would not comply with the requirements of paragraph 112 of the NPPF.

The proposed parking facilities have been reviewed in line with Sefton Council policies and guidelines as any issues with the parking facilities is likely to impact on Sefton. The size of the spaces does comply however the proposed number falls short of the expected requirement for a site of this size. It is expected there would be 36 spaces with at least 6% being disabled spaces. The proposed 24 spaces falls well short of the requirements. The number of cycle spaces does comply.

The information submitted does not include sight visibility splays for the proposed junction and has limited vehicle tracking information. Vehicle tracking information, for all vehicle movements into and out of the site and within the site for the largest expected vehicles, is required together with details of visibility splays.

In its current form and given the limited information provided the proposal fails to meet the requirements of para 113 of the NPPF and cannot currently be supported.

6.6 WLBC Principal Engineer (27/02/23)

I have reviewed the Drainage Strategy Report and in principle the drainage proposals are satisfactory. I have no objection to the proposed development in principle, but I would recommend the inclusion of a condition.

6.7 Natural England (03/03/23)

No objection

6.8 Environmental Protection Team (09/03/23)

Having reviewed the submitted documentation including the design and access statement/plans and elevations it is clear that the proposed development will have an environmental impact in relation to noise which has not been addressed in the submission.

The development will be served by freezers and chillers that would more than likely be serviced by external mechanical plant which will introduce additional noise sources into the local amenity.

There will also be an increase from traffic and deliveries, use of service areas. I association with the development.

The applicant will be required to submit a full noise assessment to demonstrate that the site is suitable for the proposed development; regard must be given to the location of external mechanical plant and equipment and traffic uses such as deliveries and use of service areas. If the noise assessment indicates that noise from the development will impact existing residents, then a detailed scheme of noise mitigation measures shall be submitted to and approved in writing by the local planning authority.

The report should be prepared by a person with appropriate acoustic qualifications and should be with full regard to all relevant guidance including BS8233:2014 - Guidance on Sound Insulation and Noise Reduction for Buildings and BS4142:2014 Methods for rating and assessing industrial and commercial sound.

In my view the application should be refused until a revised submission is made covering the potential noise issues on the local amenity.

6.9 Merseytravel - No response received

## **7.0 OTHER REPRESENTATIONS**

7.1 At the time of writing twenty three letters of representation have been received which can be summarised as:

- Objection or strong objection to the proposal
- Query if there is a need for the store as there are already several convenience stores in the local area as well as larger stores at Kew Retail Park. Concerns regarding impact on the existing small businesses
- Concerns regarding highway matters including: location of access close to existing roundabout, increase in traffic, potential for increase in accidents, lack of suitable facilities for cyclist and pedestrians, disagreement with comments from LCC Highways
- Road name has been incorrectly identified on the plan - should be labelled Stamford Road
- Query why only certain residents were consulted and not others
- Concerns regarding impact on nearby residents as a result of; noise, light, pollution, litter, loss of privacy, impact of construction works on old buildings
- Query when the land changed from Green Belt
- Express surprise that the loss of property value and impact of construction works cannot be taken into account in the assessment
- Consider the application cannot be implemented due to right of access over the land
- Consider the development is in conflict with the local development plan
- Concerns regarding impact on wildlife

## **8.0 SUPPORTING INFORMATION**

8.1 The application has been supported by the following documents:

Planning Design and Access Statement including Retail Statement  
Transport Statement  
Arboricultural Impact Assessment  
Drainage Strategy Report  
Ecological Survey and Assessment

## **9.0 RELEVANT PLANNING POLICIES**

- 9.1 The National Planning Policy Framework (NPPF) and the West Lancashire Local Plan 2012-2027 Development Plan Document provide the policy framework against which the development proposals will be assessed.
- 9.2 The site is located on land which is allocated as Safeguarded Land under Policy GN2 of the West Lancashire Local Plan 2012-2027 DPD.

### **National Planning Policy Framework**

Promoting healthy and safe communities  
Achieving well-designed places  
Delivering a sufficient supply of homes

### **West Lancashire Local Plan Policies**

SP1 - A Sustainable Development Framework for West Lancashire  
GN1 - Settlement Boundaries  
GN2 - Safeguarded Land  
GN3 - Criteria for Sustainable Development  
IF2 - Enhancing Sustainable Transport Choice  
EN2 - Preserving and Enhancing West Lancashire's Natural Environment

Supplementary Planning Document - Design Guide (January 2008)

## **10.0 OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

- 10.1 The main considerations for this application are:

### *Principle of development*

- 10.1 The application site lies within the settlement boundary but has been identified as required for future residential development. The site is shown on the WLLP Policies Map as part of a larger, approximately 8ha, 'Plan B' safeguarded site for 240 dwellings under Policy GN2a)v. Moss Road (west). 'Plan B' sites are protected from development until 2027 for development needs beyond that date unless one of two triggers relating to housing delivery or an increased housing target within WLLP Policy RS6 are met. In this instance, the relevant triggers to release (a) 'Plan B' site(s) for development (less than 80% of the pro rata housing target has been delivered after 10 years of the Plan period or the housing target increasing as a result of new evidence) are not engaged and therefore the application site should be safeguarded from development and not be released for development needs. Paragraph 7.66 of the Justification to Policy RS6 states "*Until these triggers are reached the land will be protected from development in a similar way to Green Belt (see Policy GN2) and in such a way*

*as to not prejudice the possible future development of this land if the 'Plan B' is triggered."*

10.2 The first sentence of Policy GN2 also deals with this matter and states that planning permission will be refused for development proposals which would prejudice the development of safeguarded land in the future. It is clear from the content of Policy GN2 and companion Policy RS6 that land is safeguarded expressly for residential purposes in the case of all 'Plan B' sites and not for the delivery of other uses..

10.3 Paragraph 143 of the NPPF is also of relevance. It indicates that when defining Green Belt boundaries, plans should:

*"c) where necessary, identify areas of safeguarded land between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period;*

*d) make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development;"*

10.4 The current proposal is not for residential use and therefore the principle of the development is contrary to policy GN2 and companion Policy RS6 and paragraph 143 of the NPPF.

10.5 It is noted that the submission draws attention to two instances when planning permission has been granted on 'Plan B' sites, where it was concluded that the future development of the sites would not be prejudiced and planning permission was granted. the circumstances surrounding those proposals were different than the currently proposed retail development. The former was an infill residential development which formed part of existing ribbon development of other houses and the latter (a farm shop and café of notably less floorspace than the current proposal) was located within the curtilage of an existing property. For those reasons these cases are not considered to be comparable to the current submission.

#### *Impact on existing retail centres*

10.6 Chapter 7 of the NPPF seeks to ensure the vitality of town centres and Policy IF1 of the Local Plan encourages the protection of existing town and local centres and states that retail uses will only be considered in out of centre locations if a specific local need is proven for the development and there is no suitable site available within a town, village or local centre.

10.7 In relation to the sequential test, the application site is out of centre. There are no designated centres in West Lancashire in proximity to the application site and, given the proposal's anticipated primary catchment area (PCA) and rural nature of the western part of the Borough, there are no centres within West Lancashire Borough to consider as part of a sequential assessment. However, the site is at the administrative boundary between West Lancashire and Sefton MBC with Ainsdale and Birkdale local centres (both located within Sefton MBC) being

within the applicant's identified PCA. Sefton Council have been consulted on the application and have indicated there are no sequentially preferable sites and therefore the proposal satisfies the sequential test.

- 10.8 The proposal is below the threshold in policy IF1 for which a retail impact assessment would be required (in this instance 1,000 sqm gross for convenience stores including supermarkets and superstores). Paragraph 5.26 of the applicant's Planning, Design and Access Statement including Retail Statement indicates that nearby centres (Ainsdale and Birkdale) located within an approximate 5-minute drive time are vital and vibrant with very few vacancies and the scale of the proposal would not result in an adverse impact on those centres. Additionally, it is noted that Sefton MBC has raised no objection to the proposals and stated there would be no unacceptable impacts upon any of their designated centres. Therefore, it is concluded there is no evidence to indicate the proposal would have an adverse impact upon any designated centre.

### *Design/Layout*

- 10.9 Paragraph 126 of the NPPF advises that the creation of high quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Policy GN3 along with the Council's SPD Design Guide requires that new development should be of a scale, mass and built form, which responds to the characteristics of the site and its surroundings.
- 10.10 The site is situated at the corner of an open field with no built development to the north or east however the site is situated on the edge of Halsall with the surrounding development to the south and west comprising mainly two storey residential properties. The proposed building would be single storey with a pitched roof on the main element having a maximum height of 8.45 metres. A single storey element on the north-eastern side of the building would have a flat roof with a maximum height of 3.88m. I am satisfied that the design uses architectural features which are in keeping with the surroundings. The building would be finished in red brick and grey roof tiles which are considered to be in keeping with materials used in the locality. The design incorporates areas for landscaping alongside both Benthams Way and Moss Road and adjacent to the field to the north. Detailed plans are not provided however a suitable condition can be imposed in this regard.

### *Impact on residential amenity*

- 10.11 Policy GN3 of the West Lancashire Local Plan (2012-2027) DPD allows development provided it retains or creates reasonable levels of privacy, amenity and sufficient garden/outdoor space for occupiers of the neighbouring properties.
- 10.12 Concerns have been raised in regard to impacts on residential amenity as a result of the proposed development including loss of privacy, impacts of noise and disturbance, litter and lighting. I have consulted the Council's Environmental Protection Team who raise concerns regarding the potential impact of the development on the amenity of neighbouring residents in particular as a result of



noise from equipment and from the increase in traffic and deliveries. Further information in the form of a full noise assessment is required in order for the impacts to be properly considered by the Council.

- 10.13 The building would be situated approx. 26m to the north of the nearest residential property. Having regard to the position and size of the building in relation to the dwellings I am satisfied that there would be no overshadowing and the building would not have any overbearing impact on neighbouring properties. The building is single storey and there would be no overlooking of nearby properties introduced as a result of the proposed scheme.
- 10.14 I am satisfied that the structure itself would not result in any significant adverse impact on residential amenity. However due to a lack of information it is not possible to properly assess the impact of the development on the residential amenity of neighbouring properties as a result of noise and disturbance. On that basis the proposal is not considered to comply with the requirements of local plan policy GN3.

### *Highways*

- 10.15 Paragraph 112 of the NPPF sets out the criteria that applications should adhere to and includes the requirement for applications to give priority first to pedestrians and cyclists and secondly to facilitate access to high quality public transport. Development should create places that are safe, secure and attractive. Policy GN3 of the West Lancashire Local Plan 2012-2027 DPD states that development should incorporate suitable and safe access and road layout design in line with latest standards. Parking should be provided in accordance with policy IF2.
- 10.16 It is noted that that Lancashire County Council raised no objections to the proposal however, due to the proximity of the site to the borough boundary, Sefton MBC Highways Development Design have also provided comments in respect of the proposal.
- 10.17 Significant concerns have been raised by Sefton MBC in respect of the development which fails to demonstrate that pedestrians and cyclists would be provided with safe and suitable access. As detailed by the Highway Engineer existing cycle and pedestrian routes would be adversely affected and the development is likely to lead to an increase in pedestrian trips where the proposal does not demonstrate adequately how these can be made safely. Furthermore, the trip generation figures have not been justified within the submission. The submission also fails to properly consider the impact the proposed site access will have on the mini-roundabout junction and vice versa or the bus stop which lies opposite. In summary it is not possible to properly assess the possible impact the development will have on highway and pedestrian safety in the local area and on that basis the proposal fails to comply with the requirements of the NPPF or Local Plan Policy GN3.

### *Drainage*

10.18 The submission has been accompanied by drainage documentation which has been considered by the Council's Principal Engineer. Whilst there is no objection to the principle of the scheme further details are required of the surface and foul water drainage of the site. In the event of any approval or recommendation, this could be resolved by condition.

### *Ecology*

10.19 Policy EN2 2 in the Local Plan states development proposals must seek to avoid impacts on significant ecological assets and protect and improve the biodiversity value of sites. If significant impacts on biodiversity are unavoidable, then mitigation or as a last resort, compensation, are required to fully offset impacts.

10.20 The application, which has been assessed by the Council's Ecological Consultant has been accompanied by an Ecological Survey and Assessment (including a Licensed Bat Survey.) The report states that no evidence of bat use or presence was found within the proposed site and our Ecological Consultant finds that the Council does not need to consider the proposals against the three tests (Habitats Regulations). The development site is near to the national and international sites which are protected under the Conservation of Habitats & Species Regulations 2017. The Ecological Consultant finds that there is no pathway that could result in likely significant effects on the national and international sites and the proposals do not warrant a Habitats Regulations Assessment. It is noted that no objection to the proposal has been raised by Natural England. Subject to relevant conditions and informative notes it is considered that the proposal would not have an adverse impact on protected species or their habitats and on that basis the proposal complies with the requirements of local plan policy EN2 2.

### *Trees/Landscaping*

10.21 Policy EN2 3 of the Local Plan states that development involving the loss of, or damage to, woodlands or trees of significant amenity, screening, wildlife or historical value will only be permitted where the development is required to meet a need that could not be met elsewhere, and where the benefits of the development clearly outweigh the loss or damage. All development should include appropriate landscaping plans which incorporate suitable tree planting that integrates well with all existing trees.

10.22 There are several mature trees within and along the boundaries of the site. The application has been accompanied by an Arboricultural Impact Assessment (AIA) which demonstrates that no trees would be lost as a result of the proposal however several are recommended for removal due to their condition. The Council's Arboricultural officer suggests that a tree planting scheme is required to replace the visual amenity that would be lost should the application be approved. This can be incorporated as part of a landscaping conditions as recommended earlier in this report. The Arboricultural Officer also recommends a Tree Protection Plan is submitted. This could be resolved by condition in the event of a recommendation of approval

## **11.0 CONCLUSION**

11.1 The site is located on land which is safeguarded by policy GN2 for residential development either after 2027 or before that date should relevant triggers be met. The principle of commercial development on the safeguarded land is not considered to comply with policy GN2. Furthermore, the proposal fails to demonstrate that there would be a safe and suitable access for cyclists and pedestrian and fails to demonstrate that there would not be an adverse impact on highway safety in the locality. In addition, the submission fails to demonstrate that the residential amenity of neighbouring properties will be protected. It is therefore considered that the proposal fails to meet the requirements of the NPPF or Policies GN2 and GN3 of the West Lancashire Local Plan 2012-2027 DPD.

## **12.0 RECOMMENDATION**

12.1 The proposed development fails to comply with the NPPF and the relevant policies in the West Lancashire Local Plan 2012-27 and is recommended for refusal for the following reasons:

1. The proposed development conflicts with Policies GN2 and RS6 of the West Lancashire Local Plan (2012- 2027) Development Plan Document as it is located on land that is safeguarded from development for the purposes of a "Plan B" for housing delivery and none of the triggers set out within Policy RS2 have been met and furthermore the proposal is not for residential development.
2. The proposed development conflicts with the NPPF and Policy GN3 (2) of the West Lancashire Local Plan Development Plan Document 2012-2027 in that insufficient information has been provided to establish the full impact of the proposed development on the existing highway network and to demonstrate that the proposal incorporates suitable and safe access and would not be detrimental to highway safety or capacity in the vicinity of the site.
3. The submission documentation fails to demonstrate that the development would not cause harm to the residential amenity of neighbouring properties and therefore the proposal fails to meet the requirements of Policy GN3 in the West Lancashire Local Plan (2012-2027) Development Plan Document.

## **13.0 SUSTAINABILITY IMPLICATIONS**

13.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

## **14.0 FINANCIAL AND RESOURCE IMPLICATIONS**

14.1 There are no significant financial or resource implications arising from this report.

## **15.0 RISK ASSESSMENT**

15.1 The actions referred to in this report are covered by the scheme of delegation to officers and any necessary changes have been made in the relevant risk registers.

## **16.0 HEALTH AND WELLBEING IMPLICATIONS**

16.1 There are no health and wellbeing implications arising from this report.

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### **Background Documents**

In accordance with Section 100D of the Local Government Act 1972 the background papers used in the compilation of reports relating to planning applications are listed within the text of each report and are available for inspection in the Planning Division, except for such documents as contain exempt or confidential information defined in Schedule 12A of the Act.

### **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

### **Human Rights**

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from Article 8 (the right to respect for private and family life, home and correspondence) and Article 1 of Protocol 1 (the right of peaceful enjoyment of possessions and protection of property).

### **Appendices**

None.