
Appeal Decision

Site visit made on 16 August 2016

by Philip Lewis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 September 2016

Appeal Ref: APP/W4325/W/16/3150518

Abbey Grange, Bridle Road, Eastham, Wirral CH62 8BR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Eastwood against the decision of Wirral Metropolitan Borough Council.
 - The application Ref OUT/15/01456, dated 3 November 2015, was refused by notice dated 22 February 2016.
 - The development proposed is residential development of up to 4 dwelling houses with garages.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was made in outline, with all matters of detail reserved for future consideration. The submitted drawings show the site location and illustrative site layout and parameters plans. The appellant has submitted further illustrative plans, Illustrative Layout 14.1012 P (00) 002 Rev. F and Parameters Plan 14.1012 P (00) 001 Rev. B. The plans show a reduced footprint for the dwelling on plot 1. These plans are not considerably different from those before the Council when it considered the application and are illustrative. For these reasons there would not be prejudice to any party's interests in considering them and the appeal has been determined on this basis.

Application for costs

3. An application for costs was made by Mr Eastwood against Wirral Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues for the appeal are:
 - The effect of the proposal on the character and appearance of the area including the likely long term effect on protected trees; and
 - Whether the development would provide adequate living conditions for future residents with particular reference to external amenity space and the effect of the proposal on the living conditions of the occupiers of Abbey Grange.
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Reasons

Character and appearance

5. The appeal site consists of the spacious grounds and access road for Abbey Grange, enclosed by existing dwellings on Manor Road, Bridle Road and Princess Avenue. There are a number of mature trees which are the subject of a Tree Preservation Order on the site between the access road, Bridle Road and dwellings on Manor Road and in some adjoining gardens of dwellings on Manor Road. I saw at my site visit that the group of trees makes a significant contribution to the character and appearance of the area and provides part of the appeal site with a wooded character. The appeal site boundary is drawn around Abbey Grange, a large dwelling with an attached range of buildings which I saw at my site visit has its principal elevation facing towards Bridle Road. I also saw that the appeal site has limited public visibility from Bridle Road and adjoining streets.
6. In respect of protected trees, the indicative layout plan shows a dwelling, 'plot 1' situated on the northern side of the site access. Whilst the indicative layout shows the removal of several trees, the significant group of trees on and close to the Bridle Road frontage would be retained. Although the layout plan is indicative, it has been put forward, amongst other things, to demonstrate that the site could be developed without harm to the protected trees and no other detailed scheme has been suggested in respect of the layout of dwellings. Therefore, I afford it considerable weight.
7. The retained protected trees would be included in the garden of the dwelling of plot 1 and in addition, there are large mature Cedar and Copper Beech trees situated in gardens of neighbouring properties on Manor Road, both of which overhang what would be the garden of the dwelling on Plot 1. Whilst the trees are protected, the close relationship between the dwelling and the protected trees could give rise to pressure from the occupants of a dwelling on plot 1 to top, lop or fell the trees due to any safety concerns or effects on living conditions, such as from shading. Any such works to the trees would be harmful to the character and appearance of the area. In this regard, I do not consider that it has been demonstrated that the site could be developed without causing harm to the group of trees in the future and consequently to the character and appearance of the area.
8. The indicative plan shows that a dwelling could be accommodated on plot 1 outside of the root protection areas of the retained trees. I am satisfied that sufficient space can be provided for the development of a dwelling in a detailed application during the reserved matters stage, whilst still protecting the trees. I have considered the appellants tree report and comments regarding the consultation from the Council's Tree Officer and that the effect upon trees was a matter which had not been raised at any point by officers in any previous discussion or correspondence. I also note that the direct loss of trees proposed could be mitigated. These matters do not however lead me to a different conclusion in respect of harm to trees.
9. Whilst Abbey Grange is not subject of any historic heritage designation, it is an attractive building with some historic interest and can be considered in the context of a non-designated heritage asset as per paragraph 135 of the National Planning Policy Framework (the Framework). The indicative plan shows a layout of dwellings which would maintain an open frontage to Abbey

Grange, with a vista towards it along the site access. In this regard, I consider that the site could be developed in a way which did not compromise its setting. Furthermore, on the balance of the evidence before me, I am not convinced that the appeal proposal would lead to a development with a cramped and overdeveloped appearance or be of an excessive density given the separation distances which could be achieved.

10. To conclude on this matter, it has not been demonstrated that the proposed development would not be likely to give rise to future pressure to undertake works to the protected trees to the detriment of the character and appearance of the area. The proposal conflicts with saved Wirral Unitary Development Plan (UDP) Policy GR7 which is concerned with trees and new development and includes that buildings should substantially preserve wooded character, provide for the protection of trees of the greatest visual value, prevent removal of trees by future occupiers and protect trees on adjacent land which may be affected by the development proposed. The proposal also fails to accord with saved UDP Policy HS4 which sets criteria for new housing development, including that a proposal does not result in detrimental change to the character of the area.

Living conditions

11. The indicative layout plan shows that the substantial part of the garden of the dwelling on plot 1 would be affected by the retained protected trees and those in neighbouring gardens which overhang it. I saw during my site visit that these trees heavily shade this part of the site and are likely to give rise to adverse effects on the living conditions of the occupiers of a dwelling on plot 1 due to shading effects to outdoor amenity space. Consequently, the substantial part of the private outdoor amenity space for plot 1 would be of a poor quality. Whilst the indicative plan shows that there would be other smaller areas of garden space associated with plot 1, these would be modest in size and irregularly shaped. I have considered that the plot may be attractive to someone looking for a wooded plot and that the trees would be protected but I am not convinced that it has been demonstrated that a dwelling on plot 1 would be provided with adequate external amenity space.
12. In respect of the living conditions of the occupiers of nearby dwellings, I am satisfied that adequate separation distances could be achieved between the windows of habitable rooms with the proposed dwellings. Specifically, I consider that the indicative layout demonstrates that the site can be developed without unacceptable overlooking, loss of outlook and overbearing effects due to the positioning of the proposed dwellings and elevations with habitable room windows with Abbey Grange and its retained private amenity space in respect of dwellings on plots 1 and 4. Given that the proposal is in outline, the relationship between the proposed dwellings and those existing in terms of scale and levels would be for a reserved matters stage if was I minded to allow the appeal.
13. To conclude on this matter, the appeal proposal would not provide adequate living conditions for future residents of the dwelling on plot 1 in terms of external amenity space. The proposal is contrary therefore to saved UDP Policy HS4 in that inadequate private amenity space would be provided. It also does not accord with paragraph 17 of the Framework which includes that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

14. I have considered the comments in respect of the need for high quality housing in the area and that the appeal proposal would contribute towards meeting local housing demand. I have also considered the comments regarding the public transport provision and the sustainability of the location and have taken into account the submitted archaeology and ecology reports. I have considered that the proposal would secure the future of Abbey Grange, but no details have been provided as to how this would be achieved.
15. I note that the appeal site is included in the Council's Strategic Housing Land Availability Assessment (SHLAA) with a capacity for five units and could contribute towards meeting housing supply in the short term and that the Council cannot demonstrate a 5 year supply of housing sites. I also note the submission that sites nearby have been developed at higher densities, such as at Manor Road, Bridle Road and Princess Avenue. However, I have not been provided with sufficient detail of such schemes to determine whether the developments are sufficiently similar to provide an indication of what should occur in this case, especially given the harm found.
16. I have considered the policies of the UDP and Framework which have been cited by the appellant and the comments regarding how the Council made its decision. The latter is however a matter for local government accountability. I note that the site is situated within a primary residential area. I also note the comments regarding landscaping and access and that they would be reserved matters would I be minded to allow the appeal.
17. Paragraph 49 of the Framework sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. In paragraph 7, the Framework sets out three dimensions of sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform an economic, social and environmental role and in paragraph 8, the Framework sets out that these roles are mutually dependent and should not be undertaken in isolation.
18. The appeal proposal would bring economic benefit in terms of employment opportunities during construction and it has also been submitted would give rise to benefits in respect of the new homes bonus and council tax contributions. In terms of the social dimension, the appeal scheme would provide housing where the Council cannot demonstrate a 5 year supply of deliverable housing sites and contribute to the housing mix. The contribution towards housing supply would however be small.
19. In respect of the environmental dimension of sustainable development, the Framework in paragraph 9 indicates that the environmental role includes contributing to protecting and enhancing our natural, built and historic environment. I have found that the appeal proposal would harm the character and appearance of the area and not provide adequate living conditions for future occupiers, conflicting with the development plan and the Framework in these regards. Therefore the appeal proposal cannot be considered to constitute sustainable development for which there is a presumption. I do not consider that the harm significantly and demonstrably outweighs the benefits of the scheme as has been suggested.

Conclusion

20. For the reasons given above, and having considered all matters raised, I consider that the appeal should be dismissed.

Philip Lewis

INSPECTOR