
Appeal Decision

Site visit made on 10 April 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 5th May 2017

Appeal Ref: APP/W4325/W/16/3165407

Land adjacent to 3 Dale Gardens, Heswall, Wirral CH60 6TQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Christopher Weatherstone against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/16/01089, dated 8 August 2016, was refused by notice dated 10 November 2016.
 - The development proposed is a new build – single dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new build – single dwelling at Land adjacent to 3 Dale Gardens, Heswall, Wirral CH60 6TQ in accordance with the terms of the application, Ref APP/16/01089, dated 8 August 2016, subject to the conditions contained within the attached Schedule.

Main Issues

2. The main issues are the effect of the development on the character and appearance of the area.

Reasons

3. The appeal site comprises part of a small wooded area located to the rear of 3 Dale Gardens and the neighbouring care home to the north. Whilst there is no public access to the woodland it nevertheless makes a positive contribution to the area, which is characterised by low to medium density, predominantly residential, development interspersed with areas of woodland.
4. The appeal site is designated as Urban Greenspace and is located within the Dee Coast Area of Special Landscape Value in the Wirral Unitary Development Plan (UDP) 2000.
5. The appeal site forms the central section of the woodland. This section is set back from the road to the north east, Oldfield Road. A lane and bridleway run adjacent to the south east boundary of the site. The dwelling would be set back from the south east boundary in a largely open area, retaining a significant number of trees between the dwelling and the bridleway. These would substantially screen the dwelling from public views. Similarly, the access to the property will be via a private drive that would link in with the lane and would sweep around the north west boundary of the site, ensuring that existing trees are retained on the south east boundary. As a result, the dwelling would

- be well-contained within the existing woodland with only the access point being readily visible from the lane.
6. The dwelling would be of a contemporary design with a flat roof and would be on a split level due to the changes in ground levels. This design will aid the dwelling to assimilate into the surrounding environment without appearing dominant in the landscape. Whilst views of it would likely be possible from public vantage points along the bridleway, these would be limited to glimpsed views through trees as are the existing dwellings on Dale Gardens. Overall, I do not find that the dwelling would represent an intrusive form of development.
 7. Subject to certain criteria, Policy GR1 of the UDP allows development on Urban Greenspace for facilities for visitors, sport or play. It also allows development for other purposes, providing alternative provision of equivalent community benefit is made available. The proposal offers no such alternative. However, the reasoned justification for Policy GR1 states that the policy's objective is to ensure that land required to maintain the network of accessible public open space is protected from development which may harm or diminish the continued value of the site for open air recreation.
 8. From the evidence presented to me and the observations I made during my site visit, the site is not accessible to the public. Therefore it cannot have any public value in terms of open air recreation. Whilst I appreciate that the overall woodland area provides significant benefit to the character and appearance of the area in terms of visual amenity, given that it is not publically accessible, the proposed dwelling would not harm or diminish the continued value of the site for open air recreation. Therefore, with regard to providing alternative provision of equivalent community benefit, as the only community benefit the existing site provides is one of visual amenity, which I have found would not be significantly harmed, such provision is not necessary.
 9. I find therefore that the proposal would not significantly harm the character or appearance of the area. As such, it would accord with Policy GR1 of the UDP. Furthermore, it would also comply with Policy LA1 of the UDP, which, amongst other matters, seeks to protect Areas of Special landscape Value and prevent new intrusive development in an otherwise open setting.

Other Matters

10. The lane which the proposal would have access onto is a narrow private lane with a public footpath across it. The only property the lane serves is Dale Farm. At the junction of the lane and Oldfield Road there is limited visibility, which, as indicated by the independent assessment carried out on behalf of The Heswall Society, fails to comply with the advice contained within Manual for Streets 2 (MFS2). However, the provision of a single dwelling would only generate a limited amount of additional traffic using the lane. Therefore, whilst visibility is less than the recommended guidance, I am satisfied that the proposal would not result in a severe risk to highway safety. Furthermore, I have not been presented with any traffic accidents having occurred as a result of the existing junction and I also note that the local highway authority have not raised any objection in respect of this matter.
11. Moreover, although the lane is narrow and two cars could not pass, there would be sufficient visibility from the entrance to the site to enable drivers to see on-coming cars and wait for them to pass before exiting the site. Given the

limited vehicles that would likely use the lane, such instances would likely be infrequent. For the same reason, there would not be any significant risk to pedestrians. Therefore, I am satisfied that the proposal would not result in a severe risk to highway safety.

12. I acknowledge the apprehension of local residents with regard to the effect on the nearby Heswall Dales SSSI. The Extended Phase 1 Habitat Survey, 11 July 2016, carried out by The Tyrer Partnership on behalf of the appellant, indicates that, subject to conditions, the proposal would not adversely affect any protected species. I have not been presented with any substantive evidence to the contrary.
13. I have also had regard to access rights in respect of the lane. However, such matters have not had any bearing on my assessment of the planning merits of the proposal.
14. The Council confirm that they do not have a demonstrable supply of five year housing land, although this is disputed by the Heswall Society. Notwithstanding this dispute, there is no substantive evidence as to why the approval of a single dwelling would undermine the Council's housing strategy.

Conditions

15. I have had regard to the various conditions that have been suggested by the Council. For the avoidance of doubt it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
16. In the interests of the character and appearance of the area, conditions are necessary regarding materials, the removal of permitted development rights, boundary treatment, landscaping, and tree protection fencing.
17. In the interests of highway safety, conditions regarding access, parking, turning and manoeuvring space and a Construction Management Plan are necessary.
18. To safeguard protected species conditions are necessary regarding tree felling, the provision of bird boxes and external lighting.
19. It is essential that the requirements of condition 6 are agreed prior to the development commencing to ensure an acceptable form of development in respect of highway safety.

Conclusion

20. For the reasons given above, having regard to all matters raised, the appeal is allowed.

Alexander Walker

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 approved plans: Location Plan, Site Plan, Plan Layout, PMS16074, Tree Constraints Plan, Proposed Elevations (West and East), Proposed Elevations (North and South), Front Facing East, Rear Wall West Facing, Side Wall South Facing, Side Facing North, Proposed Floor Plans, Ground Floor, and First Floor and Elevation Layout from South.
- 3) No construction works shall commence until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No part of the development shall be brought into use until a means of vehicular and/or pedestrian access to the site/development has been constructed. These works shall be in accordance with details as approved by a plan to be submitted to and approved in writing by the local planning authority.
- 5) No part of the development shall be brought into use until areas for vehicle parking, turning and manoeuvring have been laid out, demarcated, levelled, surfaced and drained in accordance with a plan to be submitted and approved in writing by the local planning authority.
- 6) Prior to the commencement of development a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The provisions of the approved Construction Management Plan shall be implemented in full during the period of construction and shall not be varied unless otherwise agreed in writing with the local planning authority.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no garages, outbuildings or other extensions shall be erected other than those expressly authorised by this permission.
- 8) Details of all fencing, walls, gateways and means of enclosure shall be submitted to and approved by the local planning authority before the development hereby approved is completed and the work shall be carried out prior to occupation, in accordance with the details so approved, and subsequently maintained to the satisfaction of the local planning authority.
- 9) A landscape management plan, including long term design objectives; management responsibilities and maintenance schedules for all woodland areas; and, a tree belt to the southern boundary of the site 12m in width, shall be submitted to and approved in writing by the local planning authority. All Rhododendrons within the retained tree belt should be eradicated and replaced with suitable native under storey species. The landscape management plan shall be carried out as approved prior to the occupation of the hereby approved dwelling.
- 10) No tree, shrub or hedgerow felling, or any vegetation management and/or cutting operations should take place during the period 1st March to 31st August inclusive.

- 11) Before any equipment, machinery or materials are brought onto site, a 1 metre high fence or other barrier as agreed in writing with the local planning authority, shall be erected around the outer limit of the crown spread of all trees, hedges or woodlands shown to be retained on a plan to be submitted to the local planning authority. Such fencing shall be maintained in a satisfactory manner until the development is completed. During the period of construction, no material shall be stored, fires started or trenches dug within these enclosed areas.
- 12) Prior to the occupation of the hereby approved dwelling, two tit bird breeding boxes and a single open fronted bird breeding box shall be installed within the retained woodland together with a bat box and hedgehog and insect habitat. These shall be retained as such thereafter.
- 13) Details of external lighting, indicating siting, heights and illuminance levels and spread within the site shall be submitted to and approved in writing by the local planning authority. All external lighting must follow the guidance of the Bat Conservation Trust. The approved details shall be fully completed prior to the occupation of the hereby approved dwelling and shall be retained as such thereafter.