



Appeal Decision

Site visit made on 1 July 2019

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2019

Appeal Ref: APP/W4325/W/19/3221077

Thorndale Business Centre, 182 Wallasey Road, Liscard, Wirral CH44 2AG

- 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 Ian McIver against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/16/00250, dated 22 February 2016, was refused by notice dated 22 August 2018.
 - The development proposed is the demolition of units 1&2, change of use from light commercial use/storage B8 to residential and construction of 4 New 2 Bed Triplex Apartments.
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Decision

1. The appeal is dismissed.

Application for costs

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

Main Issues

3. The main issues are the effect of the development on the character and appearance of the area and whether adequate living conditions would be provided for future occupants, with regard to noise and disturbance.

Reasons

Character and Appearance

4. The appeal site comprises an industrial building located within a small business centre that consists of two medium sized industrial buildings, including the appeal site, a tennis club and a social club. Access to the site is via a lane that also provides access to the rear of a number of residential properties fronting Rugby Road, Winchester Drive and Wallasey Road. The lane also serves The Lindens, which is a large detached dwelling.
 5. Residential properties in the area generally have road frontages and follow well-established building lines. The Lindens is an exception to this as it lies behind these frontage properties. However, the historical maps submitted by the appellant indicate that The Lindens was constructed before the surrounding housing development. Whilst there is residential development within proximity of the site, I consider that it is clearly distinguishable from the commercial/industrial/leisure uses found within the business centre.
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6. The appellant contends that there is a lawful access onto Harrow Close, which he alleges has been illegally blocked up. However, the proposal does not include the opening up of this access. I have determined the appeal on the basis that there is a single access/egress point to the site.
7. There is some dispute as to whether or not the proposal comprises backland development. Saved Policy HS10 of the Unitary Development Plan for Wirral (UDP) 2000 defines backland as land which lies behind existing houses which front one or more roads. It may comprise large garden areas, neglected land, land in other uses or a mixture of these. Given that the site lies behind existing houses I consider that the proposal does comprise backland development.
8. The proposed development would introduce residential development behind the established dwellings on Rugby Road, Winchester Drive and Wallasey Road. The dwellings would have no road frontage and therefore would fail to reflect the well-established pattern of the surrounding residential development. I acknowledge that The Lindens also does not have a road frontage. However, this is only one property and by itself does not define the character and appearance of the area. Furthermore, its positioning is closer to existing dwellings rather than the units within the Business Centre. The proposed dwellings would be adjacent to the units, clearly within the confines of the Business Centre.
9. The existing buildings within the Business Centre have a low profile, which reduces their visual impact from the surrounding roads and neighbouring properties. The proposed buildings would be two-storeys in height with accommodation in the roof space, which would be far higher than the adjacent buildings on the Business Centre. As a result, the buildings would dominate the site, exacerbating their incongruity against the low profile, utilitarian units.
10. I have had regard to the history of the site, in particular that there was a dwelling, Thorndale, previously positioned adjacent to the appeal site. However, this has long since been demolished the character and appearance of the area has evolved considerably.
11. Overall, the lack of road frontage that the development would have, being largely screened from the public realm, would be out of character and incongruous with the form of the existing surrounding development.
12. I find therefore that the proposal represents an unacceptable form of backland development that fails to respect the existing pattern and grain of development. As such, it would significantly harm the character and appearance of the area, contrary to saved Policy HS4 of the UDP, which seeks to ensure that development relates well to existing form of development and does not result in a detrimental change to the character of the area. As a consequence, it would also conflict with saved Policy HS10 of the UDP, which seeks to ensure that development complies with saved Policy HS4. Furthermore, it would fail to accord with the design objectives of the National Planning Policy Framework (the Framework).
13. In their reasons for refusal, the Council also cite their Supplementary Planning Guidance Note 10: Backland Development (SPPG). However, I do not find any specific conflict with the guidelines set out in the SPG. Nevertheless, the

proposal would conflict with saved Policy HS10 for the reasons I have set out above.

Living Conditions

14. The proposed development would be within very close proximity of the adjacent commercial/industrial unit and tennis courts. The appellant undertook an Acoustic Survey in April 2018, which concluded that noise created by the adjacent unit would not generate a level of noise that would be unacceptably harmful to the future occupants of the proposed development. The Council does not dispute these findings.
15. However, the survey was limited to Monday to Wednesday and only included the adjacent unit. It did not assess the effect of the adjacent tennis club from which the use of the courts could result in general conversing, balls bouncing and people shouting and cheering. I note that the Inspector in the previous appeal¹ on the site concluded similarly. Such noise could be readily discernible from the proposed dwellings, particularly during the summer months when windows may be open. Whilst this noise may well be harmful to existing neighbouring occupants of the site, this does not justify any further harm.
16. Whilst the installation of wire mesh may prevent balls from the tennis club from hitting the appeal properties, it would not mitigate against any harmful noise effects.
17. Furthermore, as the survey was only carried out on Monday to Wednesday I do not consider that it fully assessed the potential noise generated by the social club, particularly on a weekend.
18. I find therefore that it has not been demonstrated that the potential noise impacts from the surrounding uses would not be significantly harmful to the future occupants of the proposed development. As such, it would conflict with paragraph 127 of the Framework, which seeks to secure a high standard of amenity for existing and future users.

Other Matters

19. The appellant contends that the dwellings would be affordable. However, there is no mechanism before me to secure them as such. Accordingly, I attribute this matter limited weight.
20. The proposal would make use of a brownfield site and therefore negate the need for greenfield land for residential development. Whilst the scale of the development is relatively small, it nevertheless weighs in favour of the proposal. Furthermore, it would likely reduce the amount of traffic entering the site, which also weighs in its favour.
21. The UDP was adopted in 2000 and therefore a substantial amount of time has passed since. However, the passage of time by itself does not render the UDP out of date. Based on the evidence before me, there is no evidence to suggest that the important policies for the determination of the proposal are not up-to-date.
22. The appellant argues that he was given pre-application advice from the Council that was favourable towards the development. However, my assessment of

¹ Appeal ref: APP/W4325/W/15/3141405

the appeal before me has been based on the individual planning merits of the proposal.

23. I have had regard to the effect of the development on the living conditions of neighbouring residents with regard to overlooking and light. However, I am satisfied that the development would be sufficient distance from neighbouring residential properties to ensure that there would not be any unacceptable loss of privacy or light.
24. Concerns have been raised by local residents regarding the opening of the access on to Harrow Close. However, the proposal before me does not include for this.

Conclusion

25. The proposal would make use of a brownfield site, reduce traffic entering the site and make a positive contribution to the supply of housing. However, individually or cumulatively, these matters do not outweigh the harm the proposal would have to the character and appearance of the area or the inadequate living conditions that would be provided for future occupants.
26. For the reasons given above, the appeal is dismissed.

Alexander Walker

INSPECTOR