



Appeal Decision

Site visit made on 28 October 2019

by E Symmons BSc (Hons), MSc

an Inspector appointed by the Secretary of State

Decision date: 11 November 2019

Appeal Ref: APP/W4325/W/19/3229091

Unused Land, Lees Avenue, Rock Ferry CH42 2BJ

- 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 Landcare against the decision of Wirral Metropolitan Borough Council.
 - The application Ref OUT/17/01549, dated 8 December 2017, was refused by notice dated 21 December 2018.
 - The development proposed is for a new build of 21 no. two bedroom flats.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by C Ford (Landcare) against Wirral Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural matters

3. During validation of this appeal the appellant replaced the plans originally submitted with the appeal with those contained within an attachment reference OUT-17-01549 (3).zip. The appeal has been determined on the basis of these plans.
4. The appeal form was submitted in a different name to the original application however, it has been clarified that the name on the appeal questionnaire should have read Landcare to correspond with the application form.
5. The Design and Access Statement refers to a development for five flats fronting Bedford Road and 12 flats adjacent to Lees Avenue. However, the proposal is described within the application form as for 21 flats and the plans submitted as part of the appeal concur with this figure. I have proceeded on the basis of the description in the application form and as shown on the submitted plans.
6. The Council makes reference to number 58 Lees Avenue being adjacent to the proposed site access. However, it is number 60 Lees Avenue (no. 60) which is in this position. From the references made to this issue within the Council's submissions it is clear that this is an oversight and does not affect the parties or my consideration of the appeal.

7. The proposal seeks outline planning permission, with only appearance as a reserved matter. I have considered the appeal on this basis and have treated any plans in relation to the reserved matters as illustrative.

Main Issues

8. The Council listed four reasons for refusal within its Decision Notice. However, the concerns regarding waste collection relate to highway safety. I have therefore amalgamated these two reasons for refusal within the same main issue. Consequently, the main issues are the effect of the proposal on:
- the character and appearance of the area;
 - the living conditions of future occupiers with respect to light and outlook and to neighbouring properties with respect to privacy and outlook; and
 - highway and pedestrian safety.

Reasons

Character and appearance

9. The appeal site sits to the rear and north of 'The Bedford Lukes' Public House (PH). To the west is a railway line, to the north is the gable of the end-terrace house at no. 60 and to the east are the rear yards of the terrace on Corinthian Street. The site also includes a narrow section of land which fronts Bedford Road between number 176A and the PH. As observed during my site visit, this side of Bedford Road has a mix of traditional two and three storey residential and commercial properties. The surrounding terraces on Lees Avenue and Corinthian Street predominantly comprise two storey brick-built residential properties. Site access is gained from a sharp bend in the road where Lees Avenue and Howson Street merge. Currently the site is overgrown with areas of remnant hard standing from a previous development.
10. The appeal relates to outline permission with access, layout, scale and landscaping being considered. The development would be accessed via the existing route with construction of a tarmac road which would serve the development. There would be a pavement along part of the route. The proposal would construct one smaller block in the gap fronting Bedford Road comprising five flats over five floors. This would include one flat in the basement and one in the roof space with dormers to the front and rear. Within the main part of the site, and separated from these flats and the rear of the PH by the access road, would be a four storey block containing a further 16 two-bedroom flats (the main block). There would be three outdoor amenity areas, one behind the main block adjacent to the railway track boundary wall, one adjacent to the access road to the front of the main block and the other, to the rear of the five-flat block, also beside the road.
11. The front elevation of the block on Bedford Road, would sit at a similar height to the neighbouring building and this order of scale would be appropriate. However, it would sit adjacent to an existing three storey building and although appearance would be a reserved matter, the likely fenestration associated with the flat layout shown would be over four/five storeys and would not match the neighbouring properties. Additionally, the block would be set back from the front building line of Bedford Road to provide space for a bin store and access to the basement and ground floor flats. This set-back would interrupt the

strong building line currently present. For these reasons both the setback and building layout would have an incongruous appearance which would harm the character and appearance of Bedford Road.

12. The main block accessed from Lees Avenue and to the rear of the PH would be four storeys high and set within the context of the two-storey terraced housing to its north and east. It would only be separated from Lees Avenue and no. 60 in particular by a narrow, cobbled lane. When viewed from Lees Avenue, Howson Street and neighbouring properties, the mass, scale and number of storeys, with likely associated fenestration, would have an incongruous appearance within the traditional context of the terraced housing. This would result in harm to the character and appearance of the area.
13. In conclusion, the proposal would conflict with Policy HS4 of the Wirral Unitary Development Plan 2000¹ (UDP). This policy seeks that development relates to the scale of surrounding property with no detrimental effect upon the character and appearance of the area. There is also conflict with guidance within Designing for Self-contained Flat Development Supplementary Design Document 2006² (SPD2) which recommends that proposals relate well to the existing scale and patterns of development.

Living conditions

14. Policy HS4 of the UDP supported by SPD2 seeks good residential quality. The proposed block fronting Bedford Road would have a basement flat. No internal layout has been provided for this flat however, it is likely that either its living room or bedroom windows would sit below ground level and look out onto the access stairwell. This would provide limited outlook and daylight which would conflict with guidance contained within SPD2 which recommends that habitable rooms in the basements of older buildings, and by implication buildings in general, require access to adequate levels of daylight with two-thirds of the height of windows being above ground level. The guidance goes on to add that there should be good access to natural light and windows should not be in close proximity to high walls.
15. Regarding the potential implications for neighbouring occupiers, the proposed main block would sit opposite the rear elevation of the two-storey dwellings on Corinthian Street. Due to their proximity, it is likely that the proposed flats would have habitable room windows which would overlook the rear rooms and outdoor amenity space of these properties. The respective habitable rooms would be separated by a 2.7 metre alleyway, a 5.6 metre wide access road and a small strip of landscaping.
16. Advice within SPD2 states that where proposed development has a similar height to an existing dwelling there should be a minimum separation distance of 21 metres between habitable rooms: as the height of the development increases, so does the required separation distance. However, no substantive evidence has been submitted to support the view that proposed separation distances between habitable rooms would achieve this and secure privacy. Additionally, due to its height and mass, the main block would have an

¹ Wirral Unitary Development Plan (Including Minerals and Waste Policies). Written Statement. Adopted February 2000.

² Wirral Metropolitan Borough Council. Local Development Framework for Wirral. Supplementary Planning Document. SPD2 – Designing for Self-contained Flat Development and Conversions. Adopted 2006.

overbearing effect upon the rear rooms and outdoor amenity spaces of existing properties affecting the occupants' outlook.

17. Despite the proposal being outline, I have no certainty that the layout of the basement flat fronting Bedford Road would provide satisfactory outlook and light. This would harm the living conditions of future occupiers. Similarly, I have no certainty that the recommended separation distance between the proposed and existing habitable rooms could be achieved. The effects on loss of outlook and privacy would harm neighbouring occupiers living conditions. The proposal therefore conflicts with Policy HS4 of the UDP and guidance contained within the supporting SPD2.

Highway and pedestrian safety

18. The development would be sited in an area with good public transport links via train and bus. An internal bicycle store on the ground floor of the main block would encourage bicycle use and the potential decrease in car use could have environmental benefits. Alternatives to private car use have been suggested by the appellant however, no supporting evidence has been submitted regarding their feasibility and I give this particular benefit of the proposal limited weight.
19. There would be seven to eight parking spaces within the development which would be intended for visitors and deliveries: two at the southern end of the access road and the others in front of the main block also along the access road. Even within an area with good public transport links, 21 two-bedroom flats would be likely to generate a parking requirement for residents. It is therefore likely that the proposed visitor/delivery bays would be used for residents' parking. Due to the number of residents, and any associated visitors, the proposed parking provision would be insufficient and technical advice from the Council's Highway Officer concurs with this view. This would result in vehicles being displaced from the development on to the adjacent residential streets which have limited parking available. This would cause congestion and nuisance to existing residents who, within their representations, express particular concern regarding parking congestion.
20. The supporting text of Policy TR9 of the UDP states a willingness to reduce off-street residential parking requirements to enable high density housing where public transport provision is good. However, this policy, in combination with Policy HS4 of the UDP, requires adequate off-street parking and consideration of highway safety and traffic management issues in relation to potential displacement of parking from development on to local residential streets. The appellant considers that an agreement had previously been reached with the Council reducing the parking requirement for this proposal. However, within the Officer Report the Council has considered provision levels inadequate. I have no evidence that such an agreement has been submitted and I therefore give this argument limited weight.
21. The appellant contends that the previous property on Bedford Road, in addition to other existing flats, had no dedicated parking provision. However, I have no details regarding numbers of occupants or layout of this property and cannot make any comparisons. In any case, each proposal must be considered under the current policy framework, on its own merits, with regard to the surrounding area and in the context of existing parking constraints which is what I have done.

22. Some vehicle tracking data has been provided to show how vehicles using the two southerly bays would manoeuvre to enable them to leave the site in a forward gear. This would require them to reverse around two sweeping corners and into the back lane which sits at the end of the terrace on Corinthian Street. The Council advise that this lane is not within their, or the appellant's control. As the future use of this potential turning head would not be guaranteed, this is not a satisfactory option and I have no certainty that an alternative would be possible.
23. No tracking evidence has been provided for the other parking bays and their use presents potential for conflict with other vehicles and pedestrians. In particular, the proposed bays along the access road, when occupied, would decrease the width and capacity of the road. These bays would sit in line with the pavement which ends outside no. 60. I have no certainty that vehicles could use the bays without causing an obstruction; that vehicles would not over-run the pavement to reach the parking bays; that vehicles could turn in order to leave the site in a forward gear, and that safe access to the front door of no. 60 could be maintained. These factors would compromise and harm highway safety.
24. The appellant contends that there would be adequate visibility splays and sight lines at the site access however, no evidence has been submitted to demonstrate this. Additionally, there is a change in level from the existing highway to the site and no information has been submitted regarding how this would be dealt with. I therefore have no certainty that safe access for pedestrians and vehicles, including those using the front door of no. 60, could be achieved. The combination of the position and use of the parking bays and the limited sight lines due to the position of the site access on the bend in the road at the intersection of Lees Avenue and Howson Street, would harm highway safety.
25. There would be two proposed bin stores for the main block, one behind the north western rear corner of the building and the other on its south elevation. Although the appellant's Waste Management Strategy indicates that waste collection vehicles would enter the site, the Council's Waste Services indicate that they would require bins to be collected from Lees Avenue/Howson Street. To allow this kerb side collection residents would be required, for the north west bin store, to take bins down the length of the adjacent uneven cobbled lane to reach the collection point. For the other bin store, residents would be required to take bins along the length of the main block. No evidence of the feasibility or safety of these movements has been submitted.
26. No dedicated kerbside waste collection point has been indicated and on collection days, due to the presence of bins at the site access, it is likely that visibility would be obstructed. Additionally, large numbers of bins on the pavement would cause pedestrians to be displaced on to the road, particularly those with mobility difficulties or those pushing prams. This would result in harm to highway safety.
27. In conclusion, the appellant has provided insufficient evidence with regard to provision of safe access to and from the site. Similarly, I have no certainty that the off-street parking provision is sufficient and would not result in displacement of vehicles from the site on to nearby residential streets. It has not been demonstrated how vehicles using the parking bays would manoeuvre

to allow exit from the site in a forward gear. These matters, in addition to the uncertainty around the feasibility of waste collection proposals raise serious concerns regarding highway safety. The identified harm to highway safety would conflict with Policy HS4 of the UDP and advice contained within SPD2. Waste collection arrangements would also conflict with Policy WM9 of the Waste Local Plan 2013³ which, amongst other aims, requires the design and layout of developments to facilitate collection of waste.

Other Matters

28. The appellant contends that the proposal is similar to a previously consented scheme reference OUT/14/00449 which expired in January 2018. However, this application was for ten, four-bedroom townhouses with gardens. The plans for this development have not been submitted and I cannot draw any comparisons. In any case, I have determined this appeal on its own merits and on the basis of an application for 21 flats.
29. Suggested wording has been submitted by the appellant for a Section 106 Agreement regarding affordable housing provision however, no completed agreement has been submitted. Even if a completed Section 106 Agreement had been submitted, it would not outweigh the totality of harm I have identified.
30. I have noted that the appellant is dissatisfied with the Council's handling of the planning application, particularly timeliness, staff changes, a lack of discussion to reach compromise and that the application was not taken to planning committee. However, these matters are not before me and I confirm that I have had regard only to the planning merits of this case.
31. The appellant contends that the proposal would provide energy efficient housing however, no evidence has been provided to support this.

Conclusion

32. The proposal would be situated in an area with good local transport links and would add to the quantity and variety of housing available. It would also infill a gap in the Bedford Road frontage. However, due to the harm I have identified above, and taking into consideration the policies of the local plan as a whole, the appeal is dismissed.

E Symmons

INSPECTOR

³ Halton Council, Knowsley Council, Liverpool City Council, Sefton Council, St Helen's Council and Wirral Council Joint Waste Local Plan. 2013.