
Appeal Decision

Site visit made on 28 July 2020

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 August 2020

Appeal Ref: APP/W4325/W/20/3252108

Denecourt, 37 Oldfield Drive, Heswall CH60 6SS

- 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 Phil Carlisle of Marchington Developments against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/19/01814, dated 25 November 2019, was refused by notice dated 15 April 2020.
 - The development proposed is the construction of 6 no apartments.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Notwithstanding the company name stated on the decision notice and the appeal form, I have used the company name from the planning application form above and the appellant's full name from the appeal form for completeness.
3. The description of development in the heading has been taken from the planning application form. Part E of the appeal form states that the description of development has changed, with the number of apartments reducing to 5. This matches the scheme that is before me and which the Council considered. My findings therefore relate to this description of development.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area, including the effect of the proposal on protected trees.

Reasons

5. The appeal site comprises of the former domestic garden to the south and west of 37 Oldfield Drive which has been developed for residential dwellings. The site is to the west of the access road and behind a stone wall which lines the road. Residential properties line the southern side of the road, with open farmland to the north. The site lies in the established residential area of Heswall. Mature trees, subject of Tree Preservation Order (TPO) No. 373, occupy the site.
6. I agree with the Council's concerns about whether the supporting evidence insofar as trees have kept pace with revisions made to the scheme, but from reading across the latest set of plans and the supporting evidence, the proposal

- seeks to retain T2, T5, T6 and T7. Each of these trees, including T2, T5 and T6, which are subject of TPO No 373, were present on site at the time of my visit and are shown on plan Ref: 20/AIA/WIRR/21 (3) 01.
7. The Arboricultural Method Statement (AMS), dated 5 February 2020 proposes extensive areas of protection in the form of fencing and ground protection. On this basis I am satisfied that the appeal scheme could be developed without resulting in harm to T2, T5 and T7, subject to a planning condition to secure protection measures during construction.
 8. The remaining tree, T6 has a large Root Protection Area (RPA) which extends someway into the site. The proposed building would be constructed well within the western part of the RPA. The AMS proposes an extensive area of protection in the form of fencing and ground protection. Moreover, the AMS proposes to construct the eastern elevation on a pile and beam foundation. However, plan Ref: 20/AIA/WIRR/21 (3) 01 states that reference should be taken from the structural engineers cross-section drawing. Although the principle of building within the RPA of T6 may have been previously agreed with the Council in an earlier planning permission¹, the schemes are not the same despite the comparisons made by the appellant. From the various reports and associated plans before me, many of which relate to fundamentally different layouts to that now proposed, there is no such cross-section that relates to the development proposal for the 5 no. apartments. This leaves me with little confidence that the proposal could be built whilst retaining T6 in the short, medium and long-term. Its loss or potential loss would be to the detriment of the character and appearance of the area given that it is a high quality tree specimen that plays a vital role as a standalone feature tree not only on the site itself but also in the surrounding area.
 9. The second aspect of the Council's case relates to the design, bulk and mass of the apartment building. In this regard, criterion (i) and (ii) of saved Policy HS4 of the Unitary Development Plan (UDP) require proposals to be of a scale which relates well to surrounding property, in particular with regard to existing densities and form of development; and the proposal not resulting in a detrimental change in the character of the area.
 10. The proposed building's uppermost height may be lower than the dwelling previously granted planning permission on the site, but its overall scale and massing would be considerably greater. As a result, the proposed building would occupy much of the plot's available width and depth once the RPA's are accounted for. Moreover, the proposed balconies across the front elevation would dominate and not relate well to the character of the area due to their number and width. I am mindful of the dwelling at plot 8, but the contrast would not be acceptable in this case. Thus, I agree with the Council that the proposed design would emphasise the vertical proportion and scale of the proposed building, and that the appeal scheme, even though amended by the appellant, would not relate well to the surrounding form of development and character of the area. The change would be detrimental.
 11. The proposed use of materials would respond to the local variety and I generally find the balance of built form and amenity space to be appropriate having regard to the surrounding area. Suitable planning conditions could also secure supplementary landscaping and the provision of waste and recycling

¹ Council Ref: APP/18/00148

storage. Nevertheless, these matters do not alter or outweigh my concerns about the proposal's effect on the character and appearance of the area.

12. Of the planning permissions² which the appellant considers to represent a fallback position, it seems that Ref: APP/16/01515 is no longer extant. However, in the event that I am wrong, and there is a greater than theoretical possibility that this scheme or Ref: APP/18/00148 might take place, then the scale, massing, design and layout of those developments would be different to the scheme that is before me. As such, they would have a less harmful effect on the character and appearance of the area than the appeal scheme. In the absence of a site edged red, the other scheme (Ref: APP/19/00085) seems to relate to plots 6 and 7 and not the appeal site which is plot 1. Even so, the scale, massing, design and layout of the dwellings would have a less harmful effect on the character and appearance of the area than that of the appeal scheme. It follows that none of the schemes cited justify the proposal.
13. The 1 Oldfield Drive scheme referred to by the appellant appears to be of a more comparable scale and massing to the neighbouring properties. The 277 Telegraph Road scheme does not, based on the evidence before me, seem to involve large protected trees. Hence, neither scheme is directly comparable to the proposed development.
14. Accordingly, I conclude that the proposed development would result in significant harm to the character and appearance of the area, including the effect of the proposal on protected trees. Conflict would arise with saved UDP Policies HS4, GR5 and GR7. These policies, despite their age, are consistent with the Framework as they seek to create high quality housing development that relates well to the surrounding area, its character and by maintaining existing natural features. I give them significant weight as a result. The proposal would also conflict with Supplementary Planning Document SPD2 – Designing for Self Contained Flat Development and Conversions and paragraphs 124 and 127 of the National Planning Policy Framework (the Framework). Jointly, these seek, among other things, development to relate well to the overall quality and character of the area, including its landscape setting, having regard to scale, massing, height and design of the development in context of neighbouring buildings.

Other considerations

15. The site, and thus, the proposed apartments would be in a Primary Residential Area and well located in respect of a range of facilities and services. In doing so, the proposal would make efficient use of the land and contribute to the supply and type of housing in the Wirral. As such, the proposal would contribute towards meeting housing demand in the local area and providing flexibility for residents looking to up or downsize. In turn, this would facilitate movement within the existing housing stock given that the proposal could be built out and delivered relatively quickly. These benefits are likely to have the greatest impact in the short term given that the latest figures³ indicate that the Council is currently unable to demonstrate a five-year supply of housing against the local housing need as required by Framework paragraph 73. While the Council does not dispute the appellant's evidence in this regard, the benefits of the appeal scheme should also endure in the longer term.

² APP/16/01515, APP/18/00148 and APP/19/00085

³ Appellant Statement of Case

16. The Council is preparing a new Local Plan which may be adopted at the end of 2021. Although the Council recognise that the appeal scheme could contribute towards avoiding the need to identify additional land in the Green Belt for housing, and the emerging Local Plan may well address the Council's housing supply, the plan is some way off and could well be subject of change. I do not also know the extent or nature of any objections to the emerging Local Plan. As such, the emerging Local Plan carries very little weight. Thus, I give moderate positive weight to the housing related benefits of the scheme.
17. Short-term economic contributions such as the provision of jobs on and off the site, within the supply chain and through spending in connection with the build would arise together with longer term economic contributions to the local economy by future occupants of the apartments. I give these matters moderate positive weight.
18. Based on the evidence before me and my observations that I made during my site visit, I have no reason to disagree with the Council's view that the appeal scheme would be acceptable in terms of highway safety, wildlife, noise, air quality and residents living conditions. Planning conditions could also be imposed to secure details of drainage, cycle parking, lighting, construction and operational requirements and for a site waste management plan. The proposal would accord with saved UDP Policies TRT1, TRT3, TR9, TR12, TR13 and NC7; and Policies WM8, WM9, CS35 and CS36 of the Joint Waste Local Plan. In doing so, the proposal would also accord with the Framework. Collectively I attribute them moderate positive weight based on the scale of the scheme and as the extent of the benefits would be principally limited to the site, its immediate surroundings and future occupants.
19. However, I attach significant weight to the harm that the proposal would cause to the character and appearance of the area. This would result in environmental and social harm.

Conclusion

20. For the reasons set out above, I conclude that the proposal conflicts with the development plan as a whole. Nevertheless, Framework paragraph 11d)ii is engaged in this case. However, I conclude, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This leads me to conclude that the appeal should be determined in accordance with the development plan.
21. For the reasons set out above, I conclude that the appeal is dismissed.

Andrew McGlone

INSPECTOR