The Planning Inspectorate

Appeal Decision

Site visit made on 6 January 2021

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2021

Appeal Ref: APP/W4325/W/20/3253505
22 Farr Hall Drive, Heswall CH60 4SH

- 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 Jamie Blennerhassett of HH Heswall Limited against the decision of Wirral Metropolitan Borough Council.
- The application Ref APP/19/00910, dated 17 June 2019, was refused by notice dated 20 March 2020.
- The development proposed is described as "Demolition of the existing dwelling and replacement with up to 6 apartments together with associated landscaping, parking and access works".

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Jamie Blennerhassett of HH Heswall Limited against Wirral Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The appellant has confirmed the plans[1] which were refused by the Council. I have determined the appeal on the basis of these plans.

Main Issues

4. The main issues are the effect of the proposal on (i) the living conditions of occupiers of neighbouring properties and future occupiers of the proposal with regards to privacy, light and outlook; and (ii) the character and appearance of the area.

Reasons

Living conditions

5. Proposed apartments two, four and five have windows into bedrooms that are around 3.7 metres away from the boundary and approximately 6.195 metres from the neighbouring property 20 Farr Hall Drive (No 20). Due to the close proximity of these windows to the large building of No 20, views would be restricted compromising outlook for future occupants. The building of No 20 would appear overbearing and would give the proposed rooms an oppressive

[1] Drawing Nos B100 Rev B; B102 Rev U; B103 Rev U; B106 Rev R.

feeling. No 20 is a tall and bulky property and with the windows into these proposed bedrooms being the only external openings, there would be restricted amounts of light into the rooms which would result in the bedrooms having a cramped environment.

6. The refused plans indicate that the bedroom of apartment five which has a window in the north east elevation would be obscurely glazed. This is the only window in the bedroom and therefore obscurely glazing the window would offer severely restricted outlook. This room is described as "occasional guest bedroom" however, there would be no control over this and it is entirely probable that the room would be used by a permanent resident of the apartment. Bedrooms are habitable rooms in which residents would occupy for a significant part of a day. The obscurely glazed window and the lack of outlook would give the room a constricted atmosphere which would adversely compromise the living conditions of future occupiers of this apartment.

7. The appellant indicates that it would be for prospective residents to exercise choice, over the arrangements of the bedroom windows, when deciding to purchase the apartments. This matter does not outweigh the harm I have identified above, as there is no substantial evidence to guarantee that future owners of the apartments would be completely satisfied with the window arrangements.

8. I therefore find that that the proposal would have a harmful effect on the living conditions of future occupants with regards to outlook and light. The proposal would be contrary to Policy HS4 of the Wirral Unitary Development Plan 2000, the Wirral Supplementary Planning Document – SPD2 – Designing for Self-Contained Flat Development and Conversions 2006 and the National Planning Policy Framework (the Framework) which seeks development to achieve adequate separation from adjacent properties and have a high standard of amenity for future users.

9. Concerns have been raised that the proposal would introduce overlooking into the garden areas of neighbouring properties. It is not unusual for residential accommodation to have some views into neighbouring gardens. Due to the proximity and location of the proposed windows, I do not find that the proposal would create any adverse overlooking effects into neighbouring gardens. No 20 has a ground floor kitchen/dining room window and a first floor bedroom window which would face the proposed development. Given the location of these windows in relation to the proposed windows and the siting of the development, there would be no direct views from the proposed building into the windows of No 20 which would lead to a detrimental effect in regard to privacy.

10. The kitchen/dining room window of No 20, which would face the development is set close to the high fence on the boundary of the site. This kitchen/dining room is also served by a window to the rear of the property and glazed double doors onto a patio area. The proposal would not compromise the outlook of the kitchen/dining room of No 20 or significantly reduce the light into the room. There are also concerns that the proposal would affect the outlook from the first floor bedroom window of No. 20. However, it appears that this window is a secondary window with the bedroom having a window facing out the front of the property. I am therefore not convinced that the proposal would have an adverse effect on the outlook from this first floor bedroom.

11. I have found that the proposal would not have an adverse effect of the living conditions of occupiers of neighbouring properties in respect of outlook, light and privacy. This nevertheless does not outweigh the harm I have found on future occupiers of the development.

Character and appearance

12. The surrounding area is characterised predominantly by residential properties set in large plots with extensive landscaped gardens. The buildings in the area are of variant designs and form as well as having a mix of materials. It is this varied style of built form set within landscaped gardens that positively contributes to the character of the area.

13. The proposal would be a large building on a corner plot that would be visible through the existing landscaping. The scale, siting, design and architectural features of the proposed building, including elements of glazing, would be sympathetic and in keeping with the varied styles of the surrounding properties.

14. The Council indicate that the apartment windows would be dressed to suit individual needs of the occupiers as would the balcony areas. This, however, would not necessarily be different to a single residential unit having different styles in each window and balconies being used as seating areas or to dry clothes.

15. The existing property is of cottage style with thatched roof and ornamental scalloped ridge finished in white render. This property would be demolished and replaced by a larger building. No substantial evidence has been provided to indicate that the property is listed or of significant heritage value to warrant retention. I find that the loss of this existing building would not have a harmful effect on the character and appearance of the area.

16. Accordingly, I find that the proposal would not have a harmful effect on the character and appearance of the surrounding area.

Other matters

17. I have had regard to all correspondence submitted which includes a petition and concerns from local residents. These concerns include matters relating to site levels, parking, density, highway safety, footpaths and bridleways, flooding, drainage, trees, traffic, need for housing and comments on the submitted drawings. I have given careful consideration to these matters, some of which I note that the Council have not raised any concerns about, but they do not lead me to a different overall conclusion on the main issues.

18. My attention has been brought to a number of appeal decisions[2]. Insufficient information has been provided on these appeals and therefore I cannot be sure that these schemes are directly comparable to the appeal proposal particularly with regards to type of development, scale, location and design. In any case, I have determined the appeal on its own merits.

19. It is also recognised that the appellant has undertaken a proactive approach during the process including undertaking pre-application advice and attempting

[2] Appeal references: 3250341; 3230556 & 3212283

to work constructively with Council Officers. These matters do not alter my findings above.

Planning Balance

20. The Council have stated that a five year housing land supply cannot be demonstrated.

21. In terms of the Framework's three overarching objectives there would be some social and economic benefit in providing additional residential accommodation which would contribute to housing land supply. Whilst all contributions have a value, it is noted that those offered by six apartments, including the loss of an existing large property, would be relatively limited.

22. Protecting the environment is also a key aspect of achieving sustainable development. The appellant indicates that the proposal would be suitably located in terms of proximity to services with acceptable levels of parking and no adverse effect on drainage or ecological matters. I have also found above that the proposal would not have a detrimental effect on the character and appearance of the area. Nevertheless, the proposal would have harmful effects on the living conditions of future occupiers of the building in respect of outlook and light.

23. Taking account of the above factors and the recent Corbett Court Judgement[3], the adverse impacts of granting permission would significantly and demonstrably outweigh the relatively limited benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposal cannot benefit from the presumption in favour of sustainable development. There are no other material considerations to indicate that the proposal should be determined otherwise than in accordance with the development plan. I have already identified significant conflict with relevant development plan policies.

Conclusion

24. I conclude that for the reasons given above, the appeal should be dismissed.

Chris Baxter

INSPECTOR

[3] Corbett, R (On the Application Of) v [2020] EWCA Civ 508 (09 April 2020)