



Appeal Decision

Site Visit made on 7 September 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 30th September 2021

Appeal Ref: APP/W4325/W/21/3274862

173 and 175 Bedford Road, Birkenhead, Wirral CH42 2AW

- 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 A Wilson of Grenhall Ltd against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/20/01844, dated 30 November 2020, was refused by notice dated 26 January 2021.
 - The development proposed is extensions and alterations to rear, at ground, first and second floor level (including to an existing dormer), to create two additional apartments.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published in July 2021. The parties have been provided with the opportunity to comment on the implications of the revisions to their cases. I have had regard to it, and the comments made, in my determination of the appeal.

Main Issues

3. The main issues are:
 - i) The effect of the proposal on the living conditions of the residential occupiers of 177 Bedford Road, with particular regard to outlook and light; and
 - ii) Whether or not the proposal would provide an adequate standard of living conditions for existing occupiers, with particular regard to outlook and private outdoor space.

Reasons

Living conditions of neighbouring residential occupiers

4. The appeal site comprises 2 adjoining 2 storey terraced properties with 2 storey rear offshoots. The properties have been previously altered and extended and they are in use as 8 self-contained residential flats. No 173 is an end of terrace property with its main side elevation immediately adjacent to a public right of way (the FP) that links Bedford Road to Byrne Avenue. No 175 is a mid terrace dwelling. The appeal site is in a primarily residential area.

5. The proposal would be alterations and extensions to the offshoot and to the rear to provide 4 residential units rather than the existing 2. The offshoot, which finishes below the 2 storey eaves of the terrace, would be increased in height to finish just below the terrace ridge. The pitched roof of the 2 storey extension would be offset from and slightly below the ridge height of the extended offshoot. It would be wider than the offshoot. The single storey flat roof extension to the rear would be the same width as the original offshoot and it would have an eaves height of over 3m.
6. The appeal site is separated from No 171 by the FP. The proposal would not impact adversely on the neighbouring occupiers. To the other side, No 177 is a mid terrace dwelling in use as a single family dwelling or a small house in multiple occupancy. It has ground and first floor habitable room windows in its main rear elevation, and a ground floor kitchen window and first floor bathroom with obscure glazing in the side elevation of its offshoot facing the appeal site.
7. Subject to the first floor windows in the proposal facing No 177 being obscurely glazed, there would be no overlooking between neighbouring habitable room windows. Overlooking of the neighbours from the first floor roof terrace would be avoided by the use of privacy screens.
8. The garden of No 177, including between its offshoot and the boundary wall, is relatively narrow. The significant increase in the bulk of built development would be visually obtrusive from the neighbouring habitable room windows and the rear yard and garden. By virtue of its height, size and scale and proximity, the proposal would be overbearing and it would diminish the outlook from the neighbouring habitable room windows and garden. The juxtaposition and orientation of the proposal would be likely to reduce the light and sunlight to the neighbouring habitable room windows and garden for parts of the day.
9. The modelled 3D imagery suggests the proposal would be screened from the neighbouring rear ground floor window by a shed. The submitted photographs suggest this is a temporary structure with wooden pallets and a tarpaulin, used to support scaffolding to the rear of the appeal building. The shed should not be relied upon to screen the development from view. Moreover, I am not persuaded that the modelled images, which do not appear to clearly illustrate the full height of the proposal nor the neighbouring offshoot, accurately represent how the proposal would be perceived by the neighbours.
10. Therefore, I conclude that the proposal would harm the living conditions of the residential occupiers of No 177, with particular regard to outlook and light. It would conflict with the residential amenity aims of saved policies HS4, HS11 and HS13 of the Wirral Borough Council Unitary Development Plan Adopted February 2000 (the UDP).

Living conditions of existing residential occupiers

11. The existing large rear yard is communal outdoor space for the occupiers of the appeal building flats. It is enclosed by tall walls and fences. Except for the direct access from the ground floor flat in the offshoot, it is accessed via a locked gate from the FP.
12. The rear ground floor bedroom windows in the main part of Nos 173-175 currently look out onto the narrow yard between the side boundary walls and the side elevations of the offshoot. The close proximity of built form to either

side of the bedroom windows is mitigated by the depth of the views towards the rear boundary and the verdant tree canopies beyond.

13. The marked increase in the height and bulk of built form would be conspicuous from the rear habitable room windows. The wide 2 storey extension to the rear of the offshoot would be roughly 4.5m from the main rear elevation. It would obstruct the views from the rear ground floor bedroom windows. Irrespective that it would not meet the side boundaries, the proposal would confine the rear elevation and the ground floor bedroom windows. The close views of tall walls would result in a poor outlook and an unpleasant sense of enclosure to the occupiers of the existing ground floor flats.
14. The communal yard was overgrown at the time of my visit and it was being used for the storage of building materials. There were no areas of garden planting or amenity grass and no areas obviously maintained for recreational use. However, while it was not a particularly inviting outdoor space, it is a relatively large area that would allow simultaneous use by multiple households.
15. The proposed 2 ground floor units, plots 1 and 2, would have the only direct access to the rear yard. The submitted plans illustrate what appear to be patio areas to the rear of plots 1 and 2. These would be separated from one another by a wall and accessed directly from the living rooms of those flats. The first floor flat would have a large roof terrace above the ground floor flats. The second floor flat would have a balcony. In this way, each of the proposed flats would be provided with an area of private outdoor space.
16. The plans do not illustrate an external gate, but the rear yard is proposed to provide communal outdoor space for the occupiers of the existing flats who have no private outdoor space. In contrast to the existing situation, the communal area would be largely linear and narrow between plots 1 and 2 and the side boundaries. The occupiers of the existing flats would feel they were intruding into the private gardens of plots 1 and 2. Irrespective of its overall extent, there is little evidence that the narrow and awkward form of the communal area, taking into account the access and proximity of plots 1 and 2, would provide functional outdoor space for the occupiers of the 6 existing flats.
17. Traditional terraced dwellings in the area are closely spaced and habitable room windows in offshoots do look out onto walls and yards. However, in contrast to a family dwellinghouse, the existing flats would have proportionately smaller internal living space, fewer windows, no private outdoor space and no meaningful communal outdoor space. The outlook from windows in traditional dwellings does not provide a justification for a proposal that would provide a poor standard of living conditions for the occupiers of the flats.
18. Therefore, the proposal would harm the living conditions of the residential occupiers of the existing flats in the terraced part of the appeal property, with particular regard to outlook from the ground floor flats and the lack of adequate private or communal outdoor space for all existing occupiers. Taking all this into account, the proposal would conflict with the aims of saved UDP Policies HS4, HS11 and HS13.

Planning Balance

19. One and 2 storey extensions to dwellinghouses can benefit from permitted development rights, but there are no plans before me to illustrate any such

scheme. That different forms of extension could be built closer to the boundary is not a compelling reason to set aside the Council's Supplementary Planning Guidance House Extensions Adopted July 2004 (the SPG) which applies to development for which planning permission is required. Moreover, the revised Framework does not replace the SPG.

20. There is a lapsed planning permission (ref APP/14/01128) for a part two storey and part single storey extension to extend three existing flats with internal alterations at No 173. The Council confirms that, if an application was made for the same development, subject to all other things being equal, it is likely that planning permission would be granted. However, even if the lapsed permission was a genuine fallback position, it differs from the appeal scheme.
21. The lapsed scheme would be much smaller scale. Its 2 storey extension would be set further back from the boundary of No 177. Its single storey extension would have lower eaves and ridge height than the corresponding single storey part of the proposal. Consequently, it would have a lesser visual impact on the neighbouring occupiers. The lapsed permission would introduce built form behind the main rear elevation, but at a greater distance and smaller scale. The lapsed permission would not be significantly detrimental to the existing or neighbouring occupiers. It does not weigh in favour of the proposal.
22. The Council is unable to demonstrate a 5 year supply of deliverable housing sites (5YHLS). The current 3.1 year supply is a substantial shortfall. Because of the provisions of footnote 8, paragraph 11d) ii. of the Framework should be applied. The Local Plan pre-dates the Framework, but due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework requires development to function well and to create places which promote health and well-being with a high standard of amenity for users. Even taking account of the objective of significantly boosting the supply of homes, and the 5YHLS shortfall, the conflict with saved policies HS4, HS11 and HS13 should be given significant weight in the appeal.
23. Two additional flats would make a negligible contribution to the overall supply of housing. There would be limited support for the local economy and the local community. There would be limited short-term economic benefits during construction. The accessible location and compliance with some policies in the development plan and the Framework carry neutral weight. The lapsed planning permission does not weigh in favour of the proposal.

Conclusion

24. The proposal would conflict with the development plan and, taking all matters into account, the adverse impact on the living conditions of the neighbouring and the existing occupiers would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development does not apply.
25. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR