



Appeal Decision

Site visit made on 15 December 2021

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2022

Appeal Ref: APP/W4325/W/21/3278030

Cherry Cottage, Wexford Road, Oxton, Wirral CH43 9TB

- 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 James O' Loughlin against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/21/00044, dated 7 January 2021, was refused by notice dated 28 June 2021.
 - The development proposed is the erection of a two bedroom single storey detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the Council made its decision, a revised version of the National Planning Policy Framework (the Framework) has been issued. Both parties have had the opportunity to raise any issues relating to the changes in national policy which they consider to be relevant to this appeal. I have taken any comments made into account in determining this appeal.
3. The Council has made reference to Supplementary Planning Guidance note 2 (SPG), which adds further detail to Policy HS5 of the Wirral Unitary Development Plan 2000 (UDP). Although I have been provided with a copy of this document, I note the appellant's comments that it is not available on the Council's website. Its lack of public availability raises concerns about the status of the document, and so I have given the SPG limited weight in the determination of this appeal.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. The appeal site is located within Zone 1 of the Noctorum Ridge area, as identified within UDP Policy HS5. Paragraph 6.18 of the UDP describes Zone 1 as comprising of large detached houses with extensive gardens, with an abundance of mature trees and shrubs. These features, together with the low density of development, create an area of considerable environmental quality.

6. Cherry Cottage is typical of the form of development which characterises Zone 1. The appeal site fronts onto Wexford Road, and, like the majority of other properties on this side of the street and the wider perimeter block, comprises of a substantial detached house, set well back from the road behind a landscaped front garden. The large plot sizes in the block means that there are few accesses onto Wexford Road, which is bounded by long sections of uninterrupted walls and fences, overhung by trees and bushes. The result is an area which has a verdant and spacious quality, within which mature trees, rather than buildings, are the most prominent features.
7. Noctorum Ridge is identified as an area which is subject to development pressure which may challenge its character, and Policy HS5 sets out criteria to manage such change. The appeal proposal would comply with the requirement in Policy HS5 that development within Zone 1 should be low rise and with a maximum density of 10 dwellings per hectare. However, the policy clearly states that these density controls are in addition to the criteria in Policy HS4, which requires that development does not result in a detrimental change in the character of the area.
8. As a result of the proposed development, Cherry Cottage itself would be left with a reasonable sized garden, but unlike those in the surrounding area, the new dwelling would have a much more restricted outdoor amenity area. The large gardens which characterise the area would not be reflected in the proposed development.
9. The proposed plot size would be considerably smaller than those within the Wexford Road perimeter block, including the majority of properties fronting onto Budworth Road, around the corner from the appeal site. I acknowledge that the resultant plot and dwelling size would not be dissimilar in scale to properties fronting onto Wexford Close and Menlo Close, with a similar set back. However, the appeal proposal would be viewed in the context of the larger properties along this side of Wexford Road, rather than the slightly higher density development along those short cul-de-sacs which lead off Wexford Road.
10. The proposed dwelling would be single storey and would have a reasonable set back from the road, but the new house and its access would nonetheless be visible from the street and from surrounding properties. The replacement of a large, well landscaped garden with a new dwelling set within a much smaller plot, a significant proportion of which would be given over to built form and hardstanding, would harmfully erode the spacious and verdant character of this part of the street, when viewed from surrounding public and private vantage points.
11. Furthermore, the proposed subdivision of the existing large plot would result in a tandem style development, with Cherry Cottage to the rear and the new dwelling in front. Such a development pattern is not a feature of the surrounding area, which is characterised by properties which front directly onto the road frontage. In addition, the creation of a second access onto Wexford Road, adjacent to the existing driveway, would disrupt the existing long front boundary wall, which is a characteristic feature of the area. Consequently, the proposal would fail to respect, and would cause harm to, the established character of the area.

12. The submitted Tree Survey identifies a significant number of trees within the front garden area, which vary in their condition. The site layout plan identifies two category C trees which would be removed to accommodate the proposed bungalow, with seven trees being retained. However, a number of the trees and shrubs identified on the Tree Survey are not shown on the site plan, and given the position of the proposed dwelling and access it seems likely that more vegetation would need to be removed, including along the front boundary. Even if the trees to be removed are of low quality, they nonetheless contribute to the well treed character of the area, and there is little scope for replacement planting within the garden area of the proposed dwelling. As such, it would fail to reflect the character of Wexford Road, which is defined by properties with large gardens with abundant mature trees and vegetation.
13. Whilst making efficient use of land is an objective of the Framework, paragraph 124 notes that decisions should take account of the desirability of maintaining an area's prevailing character and setting (including residential gardens). For the reasons set out, the proposal would cause harm to the character of the area, so would not meet the requirements of paragraph 124. Furthermore, the proposal could result in pressure for similar development in the surrounding area, which could result in additional, cumulative harm to the characteristics that define Zone 1 of the Noctorum Ridge.
14. The appellant has drawn my attention to previous appeal decisions relating to development at Central Avenue, Bromborough and Cornelius Drive, Thingwall. Both cases involved new dwellings within an existing urban area, but they were not within Zone 1 of the Noctorum Ridge area, and the surrounding context was very different to that in the case before me. I have determined this appeal on its own merits and found it would cause harm for the reasons described.
15. I conclude that the proposal would cause considerable harm to the character and appearance of the area. The proposal would fail to comply with Policy HS4, which allows for new housing development within Primarily Residential Areas where it is of a scale which relates well to surrounding property and does not result in a detrimental change in the character of the area, paying particular attention to the maintenance of existing natural features. As the proposal does not meet the requirements of Policy HS4, it also fails to meet the first requirement of Policy HS5.
16. There is further conflict with Framework paragraph 130, which requires that developments are sympathetic to local character, including the surrounding built environment and landscape setting. Appropriate innovation or change, including increased density, should not be prevented, but in this case the proposal would cause harm to the character of the area, so would not meet that test.

Other Considerations

17. Set against the harm identified there would be limited social and economic benefits associated with the proposal. I have not been provided with any information about the availability of public transport, but the site is within an existing urban area and is reasonably close to a range of facilities and services. Being single storey, the dwelling could make a small contribution to the need for accommodation for older people, which is identified in the Strategic Housing Market Assessment.

18. In terms of the overall supply of housing, a single additional unit would make little difference, and the support one extra household would provide to the local economy would be very small.
19. Paragraph 69 of the Framework highlights the contribution which small sites, which can often be built out quickly, can make to meeting the housing requirement. The Framework requires that great weight be given to the benefits of using suitable sites within existing settlements for homes, but for the reasons set out above, the site would not be suitable, so would not comply with paragraph 69.

Planning balance

20. The UDP dates from 2000, but the weight to be attached does not hinge on its age. Rather, paragraph 219 of the Framework makes clear that due weight should be given to existing policies according to their degree of consistency with the Framework. Framework paragraph 130 makes clear that development should be sympathetic to local character, including the surrounding built environment achieve, and the criteria contained in Policy HS4 are consistent with these considerations. Therefore, the conflict between the proposal and Policy HS4 should be given significant weight in this appeal.
21. As there are no policies in the Local Plan which positively favour development of this kind in this location, and as the proposal would be contrary to the policies referred to above, there would be a conflict with the development plan as a whole.
22. The Council has not disputed the appellant's assertion that it is unable to demonstrate a five-year supply of deliverable housing sites. I have not been provided with information about the extent of the shortfall, although note the extract from the Strategic Market Housing Assessment provided by the appellant, which suggests that there has been a persistent, and in some cases significant, under delivery of housing completions in each of the years between 2008/9 and 2018/19.
23. In these circumstances, footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date. Permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The site is not within a protected area.
24. The benefits of the proposed single dwelling are limited, even taking account of the objective of boosting significantly the supply of housing and the Council's housing land supply position. Consequently, the adverse effects on the character and appearance of the area would significantly and demonstrably outweigh the benefits. As a result, the presumption in favour of sustainable development does not apply.
25. The proposal would be acceptable in relation to highways, and ecological matters could be addressed through conditions. These matters, which represent a lack of harm, are neutral in the planning balance.

Conclusion

26. For the reasons given, I conclude that the conflict with the development plan is not outweighed by other considerations, including the Framework. The appeal is therefore dismissed.

R. Morgan

INSPECTOR