



---

# Appeal Decision

Site visit made on 3 May 2022

**by R Hitchcock BSc(Hons) DipCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 06 May 2022**

---

**Appeal Ref: APP/W4325/W/22/3290288**

**Land to Rear of 50 Moreton Road, Upton, Wirral CH49 4NS**

- 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 Albert Nowell against the decision of Wirral Metropolitan Borough Council.
  - The application Ref APP/21/00575, dated 21 March 2021, was refused by notice dated 12 November 2021.
  - The development proposed is the erection of 4xNo 4 bed detached dwellings.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The site benefits from two extant planning permissions for residential development. These include a part-implemented permission for 3 dormer bungalows (APP/13/01000) and an outline planning permission for 4 detached houses (OUT/19/01133) with details of landscaping reserved. Accordingly, there is no dispute between the main parties that the principle of residential development on the site has been established.
3. During the course of the Council's consideration of the planning application, revised plans were submitted by the appellant. These showed a design incorporating flat-roofs and the removal of projecting balconies. These were the plans on which the Council made its decision and I have proceeded on the same basis.

## Main Issues

4. The main issues are the effect of the development on:
  - The character and appearance of the locality
  - The living conditions of neighbouring residents with particular regard to overlooking and loss of privacy.

## Reasons

### *Character and appearance*

5. The site is located off a shared driveway between properties fronting Moreton Road. The area consists of primarily residential homes of varying ages and of one or 2 storeys set in generous plots. The adjacent backland sites at 50 and 56 Moreton Road, have recently been developed with individually designed

- detached houses. The site is bordered by residential development on 3 sides and a wooded area to the north-east.
6. The proposal seeks the erection of 4 detached dwellings. The buildings would be set in a consistent row and aligned facing north-west. Parking and lawned areas would front on to a continuation of the existing driveway. Private garden spaces would be provided to the rear, backing on to the rear gardens of houses along Upland Road. The houses would be 3-storeys with a modern flat roof design. The buildings would be finished in a mix of grey facing-brick, render and larch cladding with aluminium detailing and window framing. The rear bedrooms on the upper floors would have inward-opening glazed doors set behind a glazed balustrade.
  7. The 3-storey development would contrast with the predominant scale of surrounding 2-storey dwellings. The overall height of the buildings would not be significantly different to the previously approved units and would have a smaller footprint. However, the inclusion of an additional floor in lieu of a traditional pitched roofs of the earlier schemes would cause the buildings to have a large block form with deep elevations arising from the continuous high eaves lines. Notwithstanding the proposed articulation and variation in the materials to the building's frontages, they would present with expansive elevations of significantly greater height than most buildings in the locality.
  8. Taken with the sizeable depth of the units and their relatively close siting, the 3-storey height would result in significant massing both individually and read as a group. In the majority of views, the close siting would offer little relief or moderation through a sense of spaciousness about the individual buildings causing them to appear as a singularity with considerable cumulative bulk.
  9. In support of the proposal, the appellant refers me to the form of the new dwelling at No56. However, this is lower, reduces in height behind the principal elevation and benefits from an open setting that tempers its overall scale. When viewed as a group, the limited spaces between No56 and the proposed buildings would serve to exacerbate the considerable sense of massing in stark contrast to the surrounding development.
  10. Although the site is set back from the road frontage, it is visible across parts of the nearby school grounds and in glimpsed views between the buildings fronting Moreton Road. The recently constructed building at No56 is clearly visible from the main road on account of its scale and bright finish. The contrasting bespoke design also draws the eye. The significant mass and contemporary appearance of the proposed buildings would do the same. They would appear prominent and stand out against the scale and spacing of the surrounding development.
  11. I note the appellant's contention that a previously approved scheme for dormer bungalows would not necessarily reflect the predominant scale of development in the locality. At my site visit I saw examples of single and 1½ storey buildings within and behind the main frontages. Although these add to the variety of building sizes in the locality, as subordinately scaled development they do not impose on the area's characteristic built form.
  12. I also acknowledge the presence of 3-storey flat blocks nearby. However, as a flatted development demonstrating the contrasting appearance of increased scale and massing, and different to the prevailing grain and scale of

development, these are very much in the minority. In any case, the existence of development elsewhere does not represent an appropriate reason to find in favour of a proposal that would cause harm or lead me to alter my findings on this issue.

13. For the above reasons, I find that the scheme would result in a significant sense of massing which would contrast with the predominant scale and arrangement of development in the locality. It would conflict with saved Policies HS4 and HS10 of the Wirral Unitary Development Plan [2000] (the UDP) as they seek development to be of a scale which relates well to surrounding properties and avoid a detrimental change to the character of the area.

#### *Living conditions*

14. According to the Council, the proposed rear garden areas would be between about 7.4 and 8.0m deep. In comparison to the predominant size of rear gardens in the locality, these would be uncharacteristically short, and shorter than the previously approved scheme. Moreover, notwithstanding that the common boundary between the site and the gardens of properties fronting Upland Road benefits from some vegetation, the height of the upper floor windows would afford views over large parts of the rear gardens of the neighbouring properties to the south-east.
15. The significant size of the second-floor openings would facilitate views into the rear gardens of the neighbouring houses from much of the internal space that they would serve. Although the dressing room windows would be inset, the windows serving the main habitable rooms would create a significant sense of overlooking on account of the height, close proximity and size of the openings. This would cause an undue loss of privacy to those private amenity spaces.
16. I note that the appellant asserts that the proposed distance to the rear boundary would be within 1m of the distance approved under a previous scheme. However, that was for 2-storey development at a greater distance. It is therefore distinct from the proposal before me. Existing vegetation in some of the neighbouring garden areas would be outside the control of the appellant. Any mitigating effect therein could not therefore be secured in perpetuity and is not a strong argument in favour of a proposal that would cause harm.
17. For the above reasons, I find that the proposed 3-storey dwellings would result in significant harm to the living conditions of neighbouring residents through undue overlooking of private amenity spaces. The proposals would therefore conflict with Policies HS4 and HS10 of the UDP as they require development to be of a scale which relates well to surrounding properties and does not result in a loss of privacy affecting adjoining residents.

#### **Other Matters**

18. The Council is unable to demonstrate a 5-year housing land supply. Consequently, footnote 8 of the Framework applies which engages Para. 11 d). In this instance there are no policies in the Framework that protect areas or assets of particular importance and which provide a clear reason for refusing the development as set out in para 11d) i). Therefore, consideration must be had as to whether 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 (para 11 d) ii of the Framework).

19. As set out above, I have found harm to the character and appearance of the locality and the living conditions of neighbouring residents. Given buildings are designed to last tens of years and those effects would persist, I afford these matters substantial weight.
20. The proposal would provide the benefit of 4 units of accommodation on a site with planning permissions for residential development. This would contribute to housing delivery in the borough. However, in the context of the shortfall of housing land supply, it would make a relatively small contribution in helping to address the housing delivery shortfall. Furthermore, that benefit would not necessarily be dependent on the particular design of the development given that the site benefits from extant permissions. Accordingly, it is a benefit of limited weight.
21. I note the letters in support of the design of the scheme, however, these are not benefits in favour of the development.
22. I acknowledge the concerns of a third party in relation to highway safety at the proposed access. However, as the site benefits from previous permissions for additional housing on the land, any additional effect on highway safety would be negligible. This is a view shared by the Council's highway advisors.
23. Taking the above points together, I find that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development does not therefore apply.

### **Conclusion**

24. The proposal would harm the character and appearance of the area and the living conditions of nearby residents. It would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not be allowed.

*R Hitchcock*

INSPECTOR