



Appeal Decision

Site visit made on 5 July 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2022

Appeal Ref: APP/W4325/W/22/3291519

11, Caldý Road, West Kirby, Wirral, CH48 2HE

- 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 Blueoak Estates Ltd against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/21/01371, dated 21 June 2021, was refused by notice dated 16 December 2021.
 - The development proposed is demolition of existing dwelling and outbuildings and erection of a detached building containing 6 apartments with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, the appellant provided details of a planning application to demolish the neighbouring bungalow at 9 Caldý Road (No. 9), and construct an apartment block on that site. The proposed building at No. 9 would be very similar in scale and design to that proposed at the appeal site, and that recently constructed at 7 Caldý Road (No. 7).
3. The appellant has advised that the developer has contracted to purchase No. 9, and the occupier of that neighbouring property has withdrawn his objections to the appeal scheme. However, I have been provided with no confirmation that the sale has taken place, and even if it had, there is currently no planning approval in place. The application details which I have been provided with demonstrate the developer's aspirations for No. 9, but are not in themselves an indication that the development proposed will actually take place. The Council's objection to the appeal scheme remains. I have therefore based my reasoning on the circumstances as they currently exist, and have given little weight to the planning application relating to No. 9.
4. Although previously requested, I was not provided with access to No. 9 when I carried out my site visit. I have therefore based my assessment of the appeal proposal on the written evidence, and from my observations from the street and from the appeal property itself. I was also asked to assess the proposals from 13 Caldý Road (No. 13), and this further informed my assessment of the scheme. I am satisfied that my observations on site were sufficient to reach a clear conclusion on this case, although it is possible that my findings about the extent of harm to No. 9 may have been assuaged had I been able to assess the impact from that property.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupiers of 9 Caldý Road, with particular regard to outlook.

Reasons

6. Number 11 Caldý Road (No. 11) is occupied by a large bungalow in a substantial plot, well set back from the road with gardens to the front and rear. The neighbouring bungalow at No. 9 differs in design but occupies a similar plot and front building line.
7. A number of properties in the vicinity have been redeveloped in recent years, and an apartment building of very similar design to that proposed at the appeal site is nearing completion at 7 Caldý Road (No. 7). The proposed apartment block at No. 11 would be a mirror image of the development at No. 7, with two asymmetrical front gables incorporating large glazed elements. Like the development at No. 7, the proposed apartment block at No. 11 would have accommodation over 3 levels, with the upper floor within the roof space.
8. The proposed development at No. 11 would follow the existing front and side building lines of the existing bungalow on the site, but would be substantially deeper, extending further into the rear garden. As the existing bungalow at No. 11 is sited off-centre on its plot, the side elevation of the proposed apartment block would be very close to the shared boundary with No. 9.
9. The submitted plans show that, on the side adjacent to No. 9, the eaves height of the proposed apartment block would be similar to the ridge of that neighbouring bungalow. However, with its deep roof, the overall height of the proposed development would be significantly higher than the bungalow at No. 9.
10. As the apartment block at No. 7 is now almost completed, the scale and form of the building can be fully appreciated from the surrounding area. When viewed from the rear gardens of nearby properties, the significant expanse of roof along its side elevation, incorporating two large dormers, forms a highly prominent feature. The proposed development at No. 11 would introduce a similar feature along the other side of No. 9.
11. The introduction of a such a large expanse of built form would particularly affect the rear part of the bungalow at No. 9, and that part of the garden contained within its L-shaped form. Being closest to the dwelling, this is likely to be the most sensitive and well used part of the outdoor amenity space.
12. The appeal scheme has been modified by cutting out a section of the building at the rear above ground floor level. This would avoid unacceptable loss of light to the rear windows at No. 9, and would reduce the bulk of the building immediately adjacent to the shared boundary. Nonetheless, the outlook from that part of the garden nearest to the bungalow at No. 9, or from any facing windows, would be dominated by the substantial mass of built form and overly large roof. Owing to its close proximity, the proposed building would enclose the most sensitive part of the garden area at No. 9, to an unacceptable and harmful extent.
13. The combination of the recent development at No. 7 and the apartment block now proposed would have the effect of sandwiching the bungalow at No. 9 with

very substantial and high buildings on either side, in close proximity to its boundaries. This cumulative effect would exacerbate the sense of enclosure at No. 9. The scale of development would feel oppressive, and would result in a feeling of being 'hemmed in' for the occupiers of No. 9.

14. Habitable room windows have been removed from the side elevation of the proposed apartment block to avoid direct overlooking. However, the rear bedroom windows on the upper floors of the proposed apartment block would overlook the private rear garden of No. 9, albeit obliquely, causing further harm to the living conditions of the occupiers of that property.
15. The submitted sunlight and daylight report shows that in mid summer, any overshadowing to No. 9 caused by the proposed building would be minimal. However, the report shows that on 21 March, there would be significantly increased overshadowing to the rear windows of the main part of the bungalow and patio area during the morning hours. Whilst the remaining part of the garden would be unaffected, the area of garden closest to the bungalow is more likely to be used more, particularly during the winter months. The overshadowing effect would exacerbate the harm that would be caused to the rear part of the dwelling and most sensitive part of the garden at No. 9.
16. The semi-detached house at 13 Caldys Road (No. 13) is sited at a slightly higher level than the adjoining bungalow at No. 11. The property is well set back from the street, with a similar front building line to the adjacent bungalows, but a shorter rear garden. As a result, the proposed apartment block would extend almost as far as the end of the garden at No. 13.
17. There are already a number of outbuildings at No. 11 sited alongside the shared boundary with No. 13, which would be removed, and the proposed building would be sited slightly further away from the shared boundary. Nonetheless, the proposal would introduce a substantial amount of built form close to the house and garden of No. 13, which would be far larger in scale than the existing modest outbuildings.
18. The proposed building would significantly affect the outlook from the side windows at the ground floor of No. 13, but these windows serve a bathroom and study so are less sensitive than other, habitable rooms. The proposed 'cut out' of the building at first and second floor levels would help mitigate the impact on the garden, and partial screening would be provided by the existing pitched roof outbuilding at No. 13, immediately adjacent to the shared boundary with No. 11.
19. Overall, the proposal would introduce a large building in very close proximity to No. 13, resulting in a feeling of enclosure to the side of the house and the rear garden. However, the effect would not be such as to cause unacceptable harm, and would not, on its own, justify dismissing the appeal.
20. I have found that the proposal would cause significant harm to the living conditions of the occupiers of No. 9 with regard to outlook. There would also be some loss of privacy to the rear garden. Consequently, the proposal would conflict with Policy HS4 of the Wirral Unitary Development Plan 2000 (UDP) which requires, amongst other considerations, that proposals for new housing development are of a scale which relates well to surrounding property. There would be further conflict with paragraph 130 of the National Planning Policy Framework (the Framework), which requires a high standard of amenity.

Other Matters

21. Interested parties have raised concerns in relation to the loss of trees and greenery, and the impact of the scheme on local infrastructure. However, as I have found harm in relation to the main issue, it is not necessary for me to consider these matters further.

Housing need and supply

22. The appellant has noted that the Council is unable to demonstrate a five year supply of deliverable housing sites, with the current supply reported to be 3.2 years. This figure, which has not been disputed by the Council, represents a significant shortfall that needs to be addressed.
23. Because of the housing land supply situation, the most important policies for determining this appeal are deemed to be out-of-date, as set out in Paragraph 11d) and footnote 8 of the Framework. This requires that planning permission should be granted, unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
24. The only policy referred to in the Council's reason for refusal is UDP Policy HS4, which sets out criteria for the design of new housing development.
25. Although the UDP is now some years old, Paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. Due weight should be given to them according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
26. The provisions set out in Policy HS4 are consistent with Framework paragraphs 92 and 130, concerning the need to achieve well designed places and to promote healthy and safe communities. I therefore give significant weight to the conflict with Policy HS4.

Planning balance

27. Paragraph 8 of the Framework outlines the overarching interdependent planning objectives for sustainable development: social, economic and environmental.
28. In terms of the social objective, the proposal would provide 6 apartments of an acceptable size, in an area with good access to local services and facilities. The scheme would help boost housing supply in Wirral, and could be built out quickly. However, in the context of the overall housing shortfall, the net addition of 5 units would make little difference, and the contribution towards meeting identified housing needs would be small. The social benefits would therefore be modest.
29. There would be a modest economic benefit associated with construction of the development, and increased local expenditure from future residents.
30. The scheme would make more efficient use of urban land, but would result in a loss of trees which, even if replaced as proposed, would take time to reach maturity. Any environmental benefits would be small.

31. When viewed from the street, the proposal would be of an acceptable design, and appropriate conditions could be imposed to ensure that the scheme would be acceptable in terms of biodiversity. The proposal would be acceptable in terms of highways and drainage. These matters, which represent a lack of harm, are neutral in the planning balance.
32. The proposal would provide modest social and economic benefits, but these are not sufficient to outweigh the significant harm which would be caused to the living conditions of the occupiers of No. 9.
33. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits, and so the presumption in favour of sustainable development does not apply.

Conclusion

34. The identified conflict with the development plan taken as a whole is not outweighed by material considerations, including the need to boost housing supply. The appeal is therefore dismissed.

R Morgan

INSPECTOR