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## Appeal Decision

Site visit made on 24 January 2023

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

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

**Decision date: 13 February 2023**

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**Appeal Ref: APP/W4325/D/22/3312120**

**28 Birch Road, Meols, Wirral CH47 9RH**

- 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 Derek Longman against the decision of Wirral Council.
  - The application Ref APP/22/00476, dated 17 March 2022, was refused by notice dated 20 September 2022.
  - The development is the erection of single storey rear extension.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of single storey rear extension at 28 Birch Road, Meols, Wirral CH47 9RH in accordance with the terms of the application, Ref APP/22/00476, dated 17 March 2022, subject to the following condition:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 20-001 and 20-002.

### Procedural Matters

2. The extension subject of this appeal has already been erected and, as such, is referred to as the development in this decision. For reasons of clarity, the description of development has been adopted from the appeal form.
3. Access to the rear garden of 26 Birch Road was provided by a person undertaking gardening work.

### Main Issue

4. It is considered that the main issue is the effect of the proposed development the living conditions of the occupiers of 26 Birch Road.

### Reasons

5. The appeal property is an extended 2-storey semi-detached dwelling. At the rear, a single storey extension has substantially been erected with a flank wall sited adjacent to the shared boundary with 26 Birch Road. This flank wall projects above the wooden boundary fence and the Council has assessed the eaves height of the extension to be about 2.7 metres above the ground level. There is a pitched roof sloping away from the boundary.
6. As a fallback position which is given significant weight in the determination of this appeal, prior approval was granted by the Council for a single storey rear addition (Ref RESX/20/01412). Both the approved and appeal schemes exceed

the 3 metre distance referenced in Policy H11 of the Wirral Unitary Development Plan (UDP). However, the approved scheme would have been smaller in terms of height and depth than the appeal scheme and there would have been a difference between the design of the roof. A hipped roof style was proposed for the approved scheme but a gable form has been constructed. In both cases the roof slopes away from the shared boundary.

7. At ground floor level within the rear elevation of No. 26 is a patio window which provides access to a paved area. This paved area is enclosed by the appeal scheme and a single storey rear addition approximately half the width of this neighbouring property. Together with the addition, there is a sense of enclosure associated with the extension as it has been constructed. Further, the extension is a notable feature in the outlook from the patio window and the paved area.
8. However, and although there are differences in the roof design and the side elevation having a greater scale and mass, the appeal scheme does not have a materially different effect on the living conditions of the occupiers of No. 26 when compared to the approved scheme, including by reason of outlook and being excessively overbearing. The primary view from the patio window and paved area remains towards the rear garden of No. 26.
9. As it has been constructed, the extension breaches a 45° degree line drawn from the centre of the patio window as described in the Council's *House Extensions Supplementary Planning Guidance*. However, because of the siting of the patio window relative to the shared boundary, the same consideration applies to the approved scheme and, as such, there would not be a material difference between the schemes, including any effects on daylight and sunlight reaching the window of No. 26. This assessment takes into account the different roof form and the greater massing of the side elevation.
10. For the reasons given, it is concluded that the development does not cause unacceptable harm to the living conditions of the occupiers of 26 Birch Road and, as such, it does not conflict with UDP Policy H16 which requires extensions not to be so excessive so as to be unneighbourly, including by reason of outlook.

### **Conditions**

11. The Council has suggested several conditions in the event this appeal succeeds which have been assessed against the tests in the National Planning Policy Framework and the Planning Practice Guidance. Conditions concerning the commencement of development and the use of external materials to match the host property are unnecessary because the extension has been substantially constructed. However, for the avoidance of doubt about the design of the extension, then it is necessary for a condition to refer to the approved drawings. Accordingly, it is concluded that this appeal should be allowed.

*D J Barnes*

INSPECTOR