



Appeal Decision

Site visit made on 16 April 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th May 2024

Appeal Ref: APP/W4325/W/23/3334135

The Croft, Shore Lane, Caldy CH48 2JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Sharif Rashid against the decision of Wirral Metropolitan Borough Council.
 - The application Ref is APP/22/00591.
 - The development proposed is the erection of one dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal. However, I have referenced the revised paragraph numbers, where necessary.
3. The Council's second reason for refusal refers to the "removal of trees protected by preservation orders". From the information before me, the trees within the appeal site are not subject to a Tree Preservation Order, they are protected from indiscriminate felling due to their siting within a Conservation Area. I have therefore determined the appeal on this basis.
4. The appellant has included revised drawings within Appendix 1 of their appeal statement that reduces the scale of the proposed dwelling. These drawings have not been subject to consultation and are not supported by a revised tree survey. Interested parties would not have had the opportunity to consider the revised drawings and could be prejudiced if they were accepted. Therefore, I must determine the appeal on the basis of the information considered by the Council at the time of its decision.
5. I have been directed to the Council's draft local plan, Wirral Local Plan 2021-2037 Submission Draft, May 2022 (DLP). Hearings began in April 2023 and were scheduled to continue between September to November 2023. Neither main party has updated me as to the plan's progress since November 2023. However, the appellant states that the DLP received several objections and considers these to be unresolved. Consequently, in accordance with paragraph 48 of the Framework, I attach limited weight to the relevant policies in the DLP.

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the surrounding area including the Caldý Conservation Area (CA), and from the loss of existing trees.

Reasons

7. The Croft comprises a detached dwelling and associated outbuilding set within substantial grounds that extend from Shore Lane to the north and Croft Drive to the south. The dwelling's grounds slope downwards towards Croft Drive, while a bridleway is adjacent to the western boundary. The existing dwelling is largely hidden from public vantage points due to its siting within the plot and the significant level of tree cover within and adjacent to the grounds. However, glimpses of the existing dwelling can be gained from Croft Drive and the bridleway.
8. The Croft and its grounds form part of the CA. I therefore have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The CA encompasses the historic village core and the surrounding Caldý Manor Estate. The Caldý Manor Estate is characterised by substantial residential plots along relatively quiet winding roads that predominantly house extensive, two-storey detached properties. The dwellings are typically screened from the surrounding roads by a significant level of tree cover that creates an enclosed verdant and wooded character and appearance. The dwellings that are visible from the surrounding roads are mixed in appearance. The significance of this part of the CA derives from its leafy/wooded appearance and low-density design.
9. The appeal site comprises the southernmost section of The Croft's grounds fronting onto Croft Drive. As with the character and appearance of the immediate surroundings, the appeal site contains a significant number of trees. It is proposed to construct a detached, two-storey dwelling of a contemporary design with a flat sedum roof that would be sited behind an existing roadside bund that is planted with trees. The proposed dwelling would contrast with the surrounding properties both in scale and design, however, it would utilise similar materials. Although a large number of trees are proposed to be felled, those that would be retained would filter views of the proposed dwelling from the surrounding road and bridleway.
10. The scale of the proposed dwelling would be subservient to The Croft. Its design, set into the rear slope of the site, would ensure that the proposed dwelling would not unduly detract from The Croft or affect the host dwelling's southerly views. While the proposed dwelling would not follow the design attributes of The Croft, there is merit in it not being a pastiche. The dwellings to the east and southeast of the appeal site appear to be modern replacements or have been significantly extended/altered and therefore, there are few historic buildings within the immediate surrounding area from which the proposal could take its design cues. Consequently, I do not find that the proposed dwelling's contemporary design and smaller scale and mass would detract from the character, appearance or significance of the CA.
11. The appeal site is located within Zone 1 of Caldý Village, as identified by the Caldý Guidelines Area map within the Council's Supplementary Planning

Guidance Note 8: Design and Density Control Guidelines: Caldy Village (PPGN8). Within Zone 1, PPGN8 states that the character of this area is best protected by limiting densities to less than 2.5 dwellings per hectare. This is reinforced by Policy HS5(7) of the Wirral Unitary Development Plan (including Minerals and Waste Policies) Written Statement, adopted 2000 (UDP) that states, "Zone 1: Maximum density of 2.5 dwellings per hectare".

12. The main parties have provided figures for the size of The Croft's plot. Although these figures differ marginally, whichever figure is used, the proposal would exceed 2.5 dwellings per hectare. Consequently, the proposal would not adhere to the density limitations for new dwellings in Zone 1 of Caldy Village. Furthermore, the Caldy Village Conservation Area Appraisal¹ (CVCAA) states that the 20th century planned development is characterised by low density (originally 1 dwelling per acre) and that plots within the Caldy Manor Estate are in excess of one acre. The main parties have both provided figures that illustrate that the appeal site would be significantly less than one acre in size. Accordingly, the proposal would result in an overdeveloped appearance that would be incongruous with the surrounding area.
13. The appellant has directed me to examples of dwellings within the surrounding area that they assert have been constructed on plots less than one acre. However, other than the address of the property and the planning reference number, I have not been provided with substantive evidence that these examples conflict with the aforementioned policies or guidance. Furthermore, the planning history of these sites is unclear. The appellant also asserts that the surrounding plots are occupied by much larger buildings than either the proposed dwelling or The Croft and that most plots exceed 2.5 dwellings per hectare. However, I have not been provided with substantive evidence in this regard. In any event, I must determine the proposal on its own merits.
14. The appellant insists that the appeal site could be enlarged to one acre by including more of The Croft's grounds. However, this land would fall outside the appeal site and is not the proposal before me. Even if the appeal site was enlarged to one acre, the density of The Croft's plot would not adhere to 2.5 dwellings per hectare required by PPGN8 and UDP Policy HS5(7).
15. I acknowledge that the grounds associated with The Croft are substantial and are larger than others in the surrounding area. However, the plot adds to the established low-density character and appearance of the surrounding area. Paragraph 128 of the Framework states that decisions should support development that makes efficient use of land. However, part (d) of paragraph 128 explains that this should be weighed against the desirability of maintaining an area's prevailing character and setting and I have found that the proposal would harm the character and appearance of the surrounding area through a reduction in its density.
16. The appellant asserts that the CVCAA and Policy CH11 of the UDP, due to their age, do not reflect the changes that have taken place to the character of the CA since they were written. While I accept that the CA has seen some changes in the intervening years, its general character and appearance does not appear to have significantly changed, as I witnessed on my site visit.

¹ Caldy Village Conservation Area Appraisal and Management Plan, Part 1 – Conservation Area Appraisal, produced by Donald Insall Associates Ltd for Wirral Council, 2009

17. The submitted Arboricultural Impact Assessment (AIA)² indicates that a total of 30 trees would be felled within the appeal site. Of these 30 trees, only 8 are to be removed due to their condition, the rest are to be felled due to the siting of the proposal. Of the trees to be felled, 4 are category A (high quality trees) and 9 are category B (moderate quality trees). According to the AIA, some of the trees to be felled are substantial in terms of their height and the spread of their canopies, and the majority of them are in fair condition with a life expectancy exceeding either 20 or 40 years. Consequently, most of the trees to be felled would likely survive for some time, thereby sustaining their contribution to the character of the CA.
18. Since the Council determined the planning application, some trees within the appeal site have been felled due to their poor quality and their danger to the public. I noted during my site visit that two trees had been removed from the road frontage. However, the majority of the trees along the roadside frontage and eastern boundary appeared to be in-situ. Consequently, the existing trees in combination with other mature trees within neighbouring plots, made a positive contribution to visual amenity and the leafy and wooded character of the area. The felling of a significant number of trees from within the appeal site would therefore harm the character, appearance and significance of the CA.
19. The proposed dwelling, driveway, parking area and garden would be sited in proximity to a number of existing trees that are to be retained. This could lead to pressure from future occupiers of the proposed dwelling for the pruning or removal of further trees within the appeal site which would further erode the leafy and wooded significance of the CA. The proposed driveway would extend across a tree planted bund fronting Croft Drive. The AIA suggests that the driveway could be constructed using 'no dig' surfacing. However, I do not have existing and proposed cross-section drawings to demonstrate how this could be achieved. In the absence of this information, it is unclear whether the Root Protection Areas of the trees close to the driveway would be affected and their continued wellbeing sustained.
20. Policy GR7 of the UDP requires replacement trees to be planted elsewhere on the site to protect or preserve local amenity, while the Council's Tree, Hedgerow and Woodland Strategy 2020-2030 (THWS) requires replacement trees to be replaced in the same location but acknowledges that in some circumstances a nearby location may be more practical and appropriate. The THWS details the number of replacement trees required depending on the trunk diameter of each tree to be lost. Based on the AIA, the Council has concluded that there would be a requirement for 91 replacement trees. From the information before me, I have no reason to disagree.
21. I have not been provided with a landscaping scheme for the proposal and therefore it is unclear whether any replacement tree planting is proposed within the appeal site. However, the Council consider that it would not be feasible due to the space constraints posed by the existing retained trees and the proposed development. I agree with this conclusion. Even if replacement trees could be planted within the appeal site, the new trees would inevitably be younger than those to be replaced and it would be a considerable time before they would offer a similar visual amenity value or contribute in the same significant and

² Arboricultural Impact Assessment (AIA) Version 4 The Croft, Caldys produced by Simon Brain of Amenity Tree Care Ltd

positive manner to the leafy and wooded character of the CA. If off-site replacement trees were proposed, these would not counter the visual effect of the loss of the existing trees from this part of the CA and in any event, I do not have a mechanism before me to secure them.

22. For the reasons detailed above, the proposal would harm the significance of the CA and would not preserve or enhance its character or appearance. Consequently, the development would cause less than substantial harm. Paragraph 205 of the Framework states that great weight should be given to the conservation of a designated heritage asset, and in accordance with paragraph 208 of the Framework, I must weigh the less than substantial harm against the public benefits of the proposal.
23. The proposal would make an efficient use of land and the provision of one dwelling would make a contribution to the Government's objective of significantly boosting the supply of new homes. Furthermore, there would be some public benefits through employment and spending during the development's construction; through spending in the locality by the dwelling's future occupiers; and from payments received through Council Tax and the New Homes Bonus. I attach moderate weight to these benefits. Consequently, the harm I have found in respect of the proposal's effect on the significance of the CA would not be outweighed by the moderate public benefits I have identified.
24. In reference to the main issue, the proposal would harm the character and appearance of the surrounding area, including the CA and from the loss of existing trees. It would therefore conflict with Policies GR5, GR7, HS4, HS5, CH2, CH11 of the UDP which, amongst other things, seek to ensure that development relates well to existing densities and form of development; does not result in a detrimental change in the character of the area; preserves the wooded character of the site or of the surrounding area; preserves or enhances the distinctive characteristics of the Conservation Area including the relationship between its buildings and trees; and retains the character of a low density, maturely landscaped suburb with substantial houses in large grounds. It would also be contrary to SPG8, the CVCAA, the THWS and the Framework.

Other Matters

25. No objection is raised to the proposal in respect of highway safety or its effect on the occupiers of neighbouring properties. Also, the Extended Phase 1 Habitat Survey demonstrates that no protected species would be affected. Furthermore, the appeal site would be in proximity to a range of services and facilities, including public transport, and is on land within a low flood risk zone. However, these are neutral matters.
26. While the appellant asserts that there would be benefits associated with the proposal through landscape enhancements, habitat enhancements, a net gain in biodiversity and energy efficiency, I have not been provided with any substantive evidence in respect of these matters. The appellant states that money raised from the sale of the development would be used to repair and refurbish The Croft. However, I have not been provided with evidence as to the condition of The Croft nor do I have a mechanism before me to secure the enabling development.

27. Concern has been raised that the Council did not undertake a site visit prior to determining the planning application. However, this has no bearing on my consideration of the planning merits of the proposed development.

Conclusion

28. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR