



Appeal Decision

Site visit made on 28 May 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2024

Appeal Ref: APP/W4325/W/24/3338857

Westcliff, 63 Barnston Road, Barnston, Wirral CH60 2SS

- 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 Trevor Cornford against the decision of Wirral Metropolitan Borough Council.
 - The application Ref is APP/23/01355.
 - The development proposed is two storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for two storey dwelling at Westcliff, 63 Barnston Road, Barnston, Wirral CH60 2SS in accordance with the terms of the application, Ref APP/23/01355, subject to the conditions in the attached schedule.

Preliminary Matters

2. The emerging Wirral Local Plan 2021-2037 (ELP) has been submitted for independent examination by an Inspector, and public hearings have commenced. The ELP is therefore at an advanced stage and so some weight can be given to these policies. However, the Wirral Unitary Development Plan 2000 (UDP) remains the development plan.
3. The appellant has submitted amended plans with the appeal documentation. I have carefully considered the implications of accepting these amendments in the light of the Procedural Guide, Planning Appeals, England and the Holborn judgement¹.
4. The Procedural Guide advises that the appeal process should not be used to evolve a scheme. With regards to the Holborn judgement, it must be considered whether the proposed amendment involves a substantial difference or fundamental change to the application, and if any proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
5. In this instance, the proposed revisions are seeking to remove the attached garage to the front of the proposed dwelling and instead include an integrated garage in replace of the proposed lounge. Additional tree planting is also proposed. Having regard to the Holborn principles, I do not consider that the amendments would lead to the scheme being substantially different to that considered at the application stage. The description of the development remains the same and the footprint of the proposed development would be reduced. Interested parties and the Council have had the opportunity to submit

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823

comments on the amended plans at the appeal stage. In these circumstances, I am satisfied that my consideration of the proposed amendments would cause no injustice to any party were I to consider them as part of the appeal documentation.

6. Moreover, I note that the Council's suggested conditions refer to the amended plans, although it is clear that the amendments, had they been submitted during the determination of the application, would not have changed the Council's view of the proposal.

Main Issue

7. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

8. The appeal proposal is for a new dwelling, which would be built in the side garden of No 63 Barnston Road (No 63) a semi-detached property. No 63 is on a good-sized prominent corner plot at the junction of Barnston Road and Milner Road. The appeal site is within a residential area, with residential properties to three directions. To the north of the appeal site, across Milner Road, lies an open field which is within the Green Belt. There is a boundary wall around the front and side of the site, with vegetation and mature trees to the rear.
9. The surrounding residential properties give the area a pleasant, suburban feel. Whilst the properties range in style and plot width, the predominant layout is one of traditional detached and semi-detached properties set back from the road with front and rear gardens. This gives a harmonious impression of cohesiveness which adds positively to the character and appearance of the area.
10. The proposed new dwelling, being adjacent to existing residential properties, would follow the prevailing pattern of development in the surrounding area. The proposed dwelling would be set back from Barnston Road with a similar building line to neighbouring properties along Barnston Road. Whilst the appeal scheme would alter the spaciousness of the corner plot, the siting of the proposal within the plot would allow for adequate private garden space to the side and rear similar to that of other properties along the road. This would ensure that the proposal would allow for visual continuity and relate well to the surrounding built form, rather than appearing as discordant or incongruent in the street scene.
11. Due to the layout of the residential area, with Barnston Road being linear with streets running off, there are a number of other corner plots on both sides of Barnston Road in the vicinity. I noted from my site visit that a number of these plots, such as those at the corner of Beech Road and Barnston Road, and Pine Road and Barnston Road, are not overly open or spacious and have built development and foliage relatively close to the boundary line. Whilst these corner plots are surrounded by other housing, the appeal site is also within the settlement boundary, has residential development opposite and to its side and rear, and is separated from the Green Belt by the highway. Whilst each plot has different site-specific characteristics, I consider that the proposal would be in keeping with these nearby, similar sized corner plots.

12. The proposed dwelling would be set further forward than neighbouring properties along Milner Road. New tree planting along the front and side boundaries of the site would soften the impact of the proposal, but would take time to establish. However, significantly, the proposed dwelling would side rather than front onto Milner Road. The appeal building would front Barnston Road, carrying on a run of properties along the street frontage, and vehicular and pedestrian access would be from Barnston Road rather than Milner Road. As the appeal property would have a different orientation to the dwellings on Milner Road, and would relate to a different street frontage being seen in the context of Barnston Road, it would not have a detrimental impact on the character of the dwellings along Milner Road.
13. As the appeal site is on the corner of a junction, this provides an open gap and allows for views to the countryside beyond. It is within this space that the proposed detached dwelling is to be located. Whilst I recognise the loss of the open aspect, the street is not characterised by consistent or spacious gaps. Moreover, whilst the essential characteristic of Green Belts is their openness, the appeal site lies within the settlement boundary, rather than the Green Belt itself. The boundary of the Green Belt at this location has a clearly recognisable and defined physical boundary in the form of Milner Road. I consider that it is this which provides a transition between the built up settlement and the Green Belt. The appeal site, bounded by Barnston Road to the front and Milner Road to the side, is clearly within the settlement boundary and viewed as such.
14. The National Planning Policy Framework (the Framework) specifically excludes residential gardens from the definition of previously developed land, and highlights that whilst planning decisions should support the effective use of land this must be balanced with the desirability of maintaining an area's prevailing character and setting. However, for the reasons detailed above I do not consider that the proposal would harm the character and appearance of the area. It would reflect the scale and type of surrounding development, and would not appear as cramped or incongruous.
15. I therefore consider that the proposal would not harm the character and appearance of the area. The proposal would accord with Policy HS4 of the UDP which seeks to ensure that development does not result in detrimental change in the character of the area and is of a scale which relates well to surrounding property. It would also accord with ELP Policy WS7.1 which seeks to ensure that the function and appearance of development will enhance the character, appearance and setting of the surrounding area. Furthermore, it would accord with paragraph 135 of the Framework, which states that developments should be sympathetic to local character.

Other Matters

16. Interested parties have raised concerns regarding the effect of the proposal on highway safety. However, sufficient off-street parking is proposed, and the existing vehicular access would be widened to accommodate the new dwelling. Whilst the proposed dwelling would be sited near to the junction of Barnston Road and Milner Road, I note that the Council did not consider that the proposal would have a material impact on the safe operation of the highway. From the evidence before me and my observations on site I see no reason to disagree with this view.

17. Concerns have been raised regarding overlooking to neighbouring properties. However, due to the siting and layout of the proposal, I am confident that adequate separation distances between the proposal and neighbouring dwellings on Milner Road and Barnston Road can be achieved, and that there would not be a harmful loss of privacy as a result of the proposal.
18. I acknowledge the concerns from interested parties regarding surface water and drainage issues. I am satisfied that appropriate drainage and surface water measures to minimise flood risk can be secured by condition for the proposed development. I also note concerns regarding the possible removal of trees to create extra parking. However, a condition has been imposed to ensure the replacement of any trees that are planted as part of the proposed scheme, should they be removed, die, or become damaged or diseased.
19. Concerns regarding an historic covenant on the land are a separate legal matter and outside the remit of this appeal.

Conditions

20. I have considered the conditions suggested by the Council, having regard to the Planning Practice Guidance on conditions. For the sake of clarity, I have amended the conditions as necessary. The appellant has confirmed their agreement to the pre-commencement condition. In addition to the standard commencement condition, I have attached a condition specifying the approved plans in the interest of certainty (conditions 1 and 2).
21. In order to protect the character of the area, I have attached a condition ensuring that the development is carried out in accordance with the approved materials (condition 3).
22. Condition 4 is required to ensure the implementation of suitable drainage provision and to prevent localised flooding. Condition 5 ensures the appropriate disposal of sewage.
23. Condition 6 relates to access and is included in the interests of highway safety.
24. I have attached a condition relating to landscaping in order to protect the character and appearance of the area (condition 7).
25. As the approved dwelling includes a garage, I do not think that it is necessary or reasonable to also seek the provision of covered cycle parking facilities, as suggested by the Council.

Conclusion

26. For the reasons given above, I conclude that the proposal would comply with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
27. As a result, the appeal is allowed.

L C Hughes

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing No.002 Detailed Site Plan (Rev A) dated 10 January 2024

Drawing No.003 Floor, Roof Plans and Section A-A (Rev A) dated 10 January 2024

Drawing No.004 Proposed Elevations (Rev A) dated 10 January 2024

- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on Drawing No.004 Proposed Elevations (Rev A).
- 4) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles, and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- include a timetable for its implementation; and,
- provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 5) The development hereby permitted shall not be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 6) Prior to the occupation of the development hereby permitted, the proposed vehicular access must be constructed, completed and made available for use. The vehicular crossing shall be retained as such thereafter.
- 7) The landscaping shown on approved Drawing No.002 Detailed Site Plan (Rev A) shall be carried out in the first available planting and seeding seasons following the occupation of the building or the completion of the

development, whichever is the sooner, and any trees, shrubs, hedges or plants which within a period of five years from the completion of development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

*****END OF SCHEDULE*****