

# Appeal Decision

Site visit made on 27 August 2024

**by L C Hughes BA (Hons) MTP MRTPI**

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

**Decision date: 12 September 2024**

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**Appeal Ref: APP/W4325/W/24/3343368**

**17 Thorns Drive, Greasby, Wirral CH49 3PU**

- 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 Dr Jennifer Kirton against the decision of Wirral Metropolitan Borough Council.
  - The application Ref is APP/23/00617.
  - The development proposed is development of single detached dwelling together with associated works.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Wirral Unitary Development Plan 2000 (UDP) is the adopted development plan for the area. However, the emerging Wirral Local Plan (eLP) has been submitted for examination, with public hearings having taken place. The examining Inspectors have issued a post-hearing note. In accordance with the requirements of paragraph 48 of the National Planning Policy Framework (the Framework) relevant policies in the eLP are capable of carrying weight in the determination of this appeal.
3. On 30 July 2024, the Government published a consultation on proposed reforms to the Framework and other changes to the planning system. On the same date, the Secretary of State made a written ministerial statement (WMS) entitled 'Building the homes we need'. Both parties have had the opportunity to comment on any implications for the appeal and I have taken comments received into account. I have also had appropriate regard to these documents as material considerations in determining this appeal.
4. The decision notice includes a reason for refusal concerning a lack of adequate ecological information. However, on receipt of additional information regarding ecology, the reason for refusal is considered to have been addressed and the Council is content not to pursue it further. I therefore do not address this matter in the reasoning below.

## Main Issues

5. The main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the living conditions of future occupiers with regard to light and outlook to bedrooms one and two; and
- whether the proposal would lead to pressure to remove trees by future occupiers.

## Reasons

### *Character and appearance*

6. The appeal site relates to the front garden area of No 17 Thorns Drive (No 17). To the immediate west of the site lies the Green Belt and Greasby Brook. There is an area of open space adjacent to the site. The proposal is for a single detached bungalow. There are bungalows elsewhere on Thorns Drive, but the surrounding properties to the appeal site are largely detached two-storey dwellings.
7. Thorns Drive is located in an attractive residential area. Properties are set back from the road, with open front gardens. This pattern of development, along with areas of open space within the estate, contributes to the green, verdant and spacious character of the area and gives a harmonious impression of cohesiveness which contributes positively to the street scene.
8. The surrounding dwellings all have rear gardens. Given the shape and location of the site the proposed dwelling would fill much of the depth of the plot and would have an uncharacteristically small space to its rear with the main garden area being to its side. I recognise that change does not equate to harm, and that the proposed dwelling has been designed to complement surrounding properties. Furthermore, it would not appear as over dominant due to its smaller height. However, the untypical positioning of the proposed dwelling within its plot and the lack of a rear garden would give it an awkward relationship with neighbouring dwellings, appearing cramped and at variance with the general sense of spaciousness. The proposal would unbalance the rhythm of development to the detriment of the character and appearance of the area.
9. At present, the layout of the properties at this section of Thorns Drive achieves a gradual flow from the built environment to the countryside, as a result of the set back of dwellings and open frontages, allowing glimpses into the landscape beyond the housing estate. The introduction of a new dwelling at the appeal site would disrupt this gradual transition, and be at odds with the prevailing open character.
10. No 17 is on a large plot. Sufficient garden space would be retained for No 17, and the area of open space adjacent to the proposal would remain undeveloped. However, despite the large plot size, the new dwelling would appear as constrained within the plot and together with its boundary wall would give an untypical sense of enclosure, at odds with surrounding properties. Whilst the front garden area of the proposed dwelling would

remain open, the dwelling would be positioned closer to the highway than that of surrounding properties. This would be against the pattern of development in this part of Thorns Drive, where properties are set further back from the highway which contributes to the feeling of spaciousness and openness. The proposed dwelling's proximity to the highway would compound the cramped impression and appear discordant.

11. My attention has been drawn to other dwellings on the housing estate that have walls relatively close to the highway, and which have landscaping which helps to soften the brickwork. Whilst I have determined this appeal on its individual planning merits, whilst visiting the appeal site I also went to view these properties. However, I do not consider that they were directly comparable. Each had a different relationship with their respective street scene and neighbouring properties, and did not lead to a sense of enclosure in relation to the surrounding countryside or green space. The examples of other boundary features in the locality do not lead me to find that the proposal would be acceptable.
12. I have taken into account the consultation on proposed reforms to the Framework and the WMS. The draft Framework is not adopted and is subject to change, and therefore I have afforded it only limited weight. As the WMS is an expression of government policy, it is a material consideration and I have therefore afforded it moderate weight in determining the appeal. I have also given moderate weight to policies within the emerging Wirral Local Plan, which has a brownfield first approach to development, and highlights in emerging Policy W3.2 that new residential development must achieve efficient use of land, having regard to the prevailing character of the area. The WMS states that the default answer to brownfield development should be yes. The proposal is for development on garden land which is excluded from the definition of previously developed land in the Framework. Nonetheless, the WMS is clear that there should be an uplift in density, and states that the government are reversing the changes that allow local character to be used in some instances as a reason to reduce densities.
13. However, the focus on bringing forward sites is not at the expense of ensuring that development is well designed, with the proposed reforms continuing to focus on ensuring good quality development. The WMS is clear that whilst strengthening the general presumption in favour of sustainable development its application cannot justify poor quality development.
14. I therefore conclude that the proposal would harm the character and appearance of the area. The proposed development would conflict with Policies HS4 and GR5 of the UDP which seek to ensure that proposals do not result in a detrimental change in the character of the area. Furthermore, the proposal would conflict with paragraph 135 of the Framework which states that development should be sympathetic to local character, including the surrounding built environment and landscape setting.

#### *Living conditions*

15. Due to its position within the plot, the rear of the proposed bungalow would be situated extremely close to the appeal site rear boundary, with its rear elevation lying almost adjacent to and facing a hedgerow. The windows of two

habitable rooms, bedroom one and bedroom two, would face the hedgerow boundary at extremely close quarters.

16. As the boundary would be a hedge, rather than a solid wall or fence, this would allow for some light to filter through. Notwithstanding this, even taking into account the orientation of the bungalow and the fact that the hedgerow is largely comprised of deciduous hawthorn, the proximity and density of the hedgerow would lead to an oppressive, cramped and claustrophobic environment with an unacceptable sense of enclosure, a poor outlook and inadequate access to natural light at various times of the year and day.
17. Whilst the owners of the proposed dwelling would be able to maintain the hedgerow on their property, the evidence indicates that there is another hedgerow immediately outside of the site boundary on the other side of the brook. The owner of the proposed property would have little control over this hedge, apart from trimming back any overhanging vegetation. As the maintenance and upkeep of this hedgerow would not be in the control of the owner of the proposed dwelling, I cannot be confident that it could be kept to a height that would minimise its impact on light and outlook. I note comments regarding the Party Wall Act 1996, which could potentially be used as a method to help solve any disputes. However, my determination of the appeal is based solely on the planning merits of the scheme.
18. I conclude that the proposal would harm the living conditions of future occupiers with regard to light and outlook in relation to bedrooms one and two. As such, the proposal would be contrary to paragraph 135 of the Framework, in that it would not provide a high standard of amenity for future users.

### *Trees*

19. Whilst the submitted tree report indicates that the development would not require any tree or hedgerow removal, the reasoned justification for Policy GD7 of the UDP is clear that the siting of new development should be carefully regulated in order to prevent the need to remove trees once the development is complete and occupied. This applies to both protected and unprotected trees.
20. The submitted tree report indicates that there are 2 hornbeam maple trees adjacent to the appeal site, and hawthorn trees within the boundary hedgerow, which are all of moderate quality and which have a life expectancy of approximately 20 years.
21. The hornbeam trees are located outside of the appeal site, and would be close to the northern elevation of the proposed dwelling. This elevation would not have any windows which would face the trees, and as such they would not lead to a loss of outlook or light, and their effect on the proposal would be limited.
22. Habitable room windows within the rear elevation of the proposed dwelling would, however, be sited close to the hedgerow and hawthorn trees. There is a likelihood that the proposal would lead to future pressure from the occupiers of the dwelling to remove the trees in order to improve outlook and levels of light, or to prevent the trees from causing a nuisance or damage to their

property. The trees contribute to the attractive green character along this part of Thorns Drive and the transition between the housing estate and the countryside beyond. Due to the cramped positioning of the proposed dwelling in proximity to the hedgerow boundary, there is unlikely to be sufficient scope for replacement planting on this part of the site.

23. None of the trees on the site are covered by a Tree Protection Order and the site is not within a Conservation Area, and as such the trees could be removed or reduced in size without requiring planning permission in order to facilitate the development. However, UDP Policy GR7 (iv) seeks to avoid this scenario from arising in the first place by requiring buildings to be sited in order to prevent the removal of trees by future occupiers to obtain reasonable sunlight to habitable rooms or to remove perceived dangers to life and property. The proposal would not achieve this. Hence, it is likely that pressure would be forthcoming in the future which could affect whether the trees could be preserved.
24. As such, I conclude that the proposal would lead to future pressure to remove trees by future occupiers contrary to Policy GR7 of the UDP, which seeks to ensure that development is sited so as to prevent the removal of trees by occupiers to obtain reasonable sunlight to habitable rooms or remove perceived dangers to life and property.

### **Other Matters**

25. I have noted the concerns raised by interested parties. However, as I have found the proposal to be unacceptable on the main issues, it is not necessary for me to explore these matters further.

### **Planning Balance**

26. The Government is seeking to significantly boost the supply of housing. The Framework encourages and supports the effective and efficient use of land and recognises that small sites can make an important contribution to the Council's housing supply. The proposal would provide an additional dwelling on a windfall site, contributing positively to the Council's housing supply.
27. The proposed development would provide social benefits in terms of an additional physically accessible dwelling in a sustainable location. Furthermore, the development would generate economic activity, providing an additional home to residents who would contribute to the local economy. The development would be near facilities and public transport links which may encourage future occupants to use sustainable forms of transport, benefitting the environment, and would contribute to housing supply on a non-Green Belt site. There would therefore be economic, social and environmental benefits to the scheme.
28. I nevertheless find that in this case the single extra dwelling of the proposal would make a limited contribution to housing supply such that I give these benefits limited weight.
29. Whilst acknowledging the strong support for new housing and higher density development in the draft Framework, WMS and the emerging local plan, I have found that the proposal would be harmful to the character and appearance of the area, would harm the living conditions of future occupiers

and would lead to pressure to remove established trees. I ascribe these matters substantial weight.

30. As such, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole.

### **Conclusion**

31. The proposal would conflict with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, the appeal should be dismissed.

*L C Hughes*

INSPECTOR