



Appeal Decision

Site visit made on 21 January 2025

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

an Inspector appointed by the Secretary of State

Decision date: 17th February 2025

Appeal Ref: APP/W4325/W/24/3350322

8 Elm Drive, Greasby, Wirral CH49 3NP

- 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 & Mrs Adam Davies against the decision of Wirral Metropolitan Borough Council.
 - The application Ref is APP/24/00074.
 - The development proposed is sub-division of the existing land and creation of a new build residential property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the 12 December 2024 the Government published a revised National Planning Policy Framework (The Framework). The revised Framework is a material consideration which should be taken into account from the day of publication. Insofar as it is relevant, its content has not been materially altered in respect of the main issues before me, and therefore it has not been necessary to go back to the parties in this regard.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area,
 - the living conditions of neighbouring occupiers with regards to outlook, privacy, and light; and
 - the living conditions of future occupiers with regards to internal living space, outlook, privacy, and outdoor amenity space.

Reasons

Character and appearance

4. The proposed three-bedroom, two-storey dwelling would be located within the curtilage of No 8 Elm Drive (No 8), which is situated on a corner plot. Elm Drive is a residential street, comprising both semi-detached post war housing, and more modern detached, mock Tudor housing. The proposed dwelling would be located between the two housing types.

5. The proposed dwelling would echo the design of the mock Tudor properties, including the neighbouring property at No 10 Elm Drive (No 10). Although the proposed dwelling would be smaller than other detached properties in the street, its design and materials would ensure that the proposal would not be incongruous, but rather would provide visual continuity and would integrate well into the street scene.
6. The width of plot frontages varies within the street, and the proposed dwelling's plot frontage would be similar to that of surrounding properties. It would be a little closer to the road frontage than neighbouring dwellings, but not unacceptably so, and its frontage would allow for off-street parking and landscaping reflecting the prevailing pattern of development.
7. Whilst the rear garden would be smaller than those of surrounding dwellings, this would not be read as part of the street scene. Moreover, due to the generous corner plot size of No 8, a sufficient amount of No 8's side garden would remain undeveloped. This would allow for the spacious character of Elm Drive to be retained and would ensure that the proposal would not appear as cramped, particularly as a generous gap with No 10 would be maintained.
8. Consequently, the proposal would not harm the character and appearance of the area. As such it would comply with Policy HS4 of the Wirral Unitary Development Plan (2000) (UDP) which seeks to ensure that developments are of a scale which relates well to surrounding property and do not result in a detrimental change in the character of the area. It would also conform with Paragraph 135 of the Framework, which highlights that developments should be sympathetic to local character.

Living conditions – neighbouring occupiers

9. I have not been directed to any guidance relating to separation distance standards, although the Council suggest that as the separation distance between the front elevation of the proposal and those opposite at 21 Elm Drive (No 21) and 23 Elm Drive (No 23) would be less than 21m, this would not meet the minimum distance expected to prevent harm to neighbouring amenity. However, as the proposed dwelling would broadly align with neighbouring dwellings, the separation distance would not be overly dissimilar to other separation distances between front elevations on the street. The separation distance, whilst less than 21m, would be generous, and having considered the site-specific circumstances, I consider that the separation distance between the proposal and No 21 and No 23 would be sufficient to avoid harm to their occupiers' outlook or privacy.
10. However, the proposed dwelling would run almost the whole length of No 8's rear garden. It would be appreciable from the rear windows of No 8, and constantly apparent to the occupants of No 8 when in their rear garden. Despite having a slightly lower ridge height than No 8, given the siting and scale of the two-storey proposal, it would impose a considerable bulk of built development that would result in an overbearing and obtrusive impact. It would therefore harm the living conditions of the occupiers of No 8 with regard to outlook.
11. The proposal would have a habitable room window on the first-floor rear elevation which would directly overlook the rear garden of No 8. The window would be close to the boundary and its presence would be intrusive. This would lead to a harmful

loss of privacy for the occupiers of No 8 and reduce their enjoyment of their garden to an unacceptable degree.

12. The appellant suggests that, were the proposal to be built, No 8 would achieve above the recommended minimum standards of 75% of the garden area receiving sunlight on 21 March. However, there are no technical reports before me in respect of daylight and sunlight. Due to its siting, orientation, height and length it is likely that the proposal would overshadow part of the rear garden and rear of the property of No 8 for a proportion of the day, leading to a harmful loss of light to both the garden and the rear of the dwelling.
13. Whilst the separation distances between the proposal and No 21 and No 23 would be acceptable, the proposal would harm the living conditions of neighbouring occupiers at No 8 with regard to outlook, privacy and light. Insofar as the proposal would maintain an adequate distance between habitable rooms in the main elevations of separate dwellings, the proposal would comply with Policy HS4. The proposal would, however, conflict with Paragraph 135 of the Framework, in that it would not provide a high standard of amenity for existing users.

Living conditions – future occupiers

14. The Department for Communities and Local Government Technical Housing Standards – Nationally Described Space Standard (NDSS) are not specifically referenced in the Council's planning policy documents, and as such should be treated as guidance, rather than policy, in assessing the requirements for the gross internal floor area of new dwellings, along with floor areas for key parts of the home.
15. The evidence before me indicates that the proposed storage space would be below that recommended under the NDSS standards, and the floor area of one of the bedrooms would not meet the NDSS standards. However, the shortfalls would not be significant, and the overall size of the proposed new dwelling would meet NDSS standards in terms of overall space. The submitted plans indicate that the habitable rooms would be well lit, and the dwelling would provide sufficient circulation and living space. The proposal would therefore provide adequate internal space for future occupiers.
16. The proposed development would have a sufficient separation distance from its front elevation to No 21 and No 23, and therefore future occupiers would not experience a restricted outlook or lack of privacy from windows at the front of the property. There would be no windows facing No 10. Views from the lounge and kitchen diner would be limited due to the proposed boundary fence at close proximity. However, the fence would allow for privacy, and the amenity areas between the rooms and the fence could be landscaped to provide an attractive outlook.
17. The rear upstairs bedroom window of the proposal would be visible from the rear garden of No 8, at relatively close proximity. However, as the window would be at first-floor level, it is likely that views into the room from the garden below would be somewhat restricted. Moreover, future occupiers would be able to limit views in, if required, with blinds, thus ensuring that their privacy could be maintained.
18. Policy HS4 of the UDP requires new housing development to make adequate provision for individual or communal garden space for each dwelling. As no

specific standards are prescribed, this is a matter of planning judgement having regard to the specific circumstances of the case.

19. As a result of the proposal, No 8 would be left with a reasonably sized garden, but the new dwelling would have a much more restricted outdoor amenity area. The appellant has measured the overall amenity space as some 144m². However, this includes the parking spaces at the front of the property for two vehicles, which would therefore not be usable garden space. The evidence suggests that the rear garden size is approximately 36m². There is, however, also an area of garden space to the side of the property. Nonetheless, even taking the side area into consideration, the garden area would not be of an appropriate size or sufficiently proportionate for a three-bedroomed dwelling. It is possible that the proposed dwelling could be occupied by a family, and the garden would be of an inadequate usable size to comfortably allow for typical garden uses such as outdoor storage, outdoor entertaining, or play equipment.
20. Therefore, whilst the proposal would not harm the living conditions of future occupiers with regard to internal living space, outlook or privacy, the proposal would harm the living conditions of future occupiers with regards to the provision of outdoor amenity space. It would therefore not comply with UDP Policy HS4 which seeks to ensure the provision of adequate private garden space for new residential developments. Furthermore, the proposal would not conform with Paragraph 135 of the Framework as it would not provide a high standard of amenity for future users.

Other Matters

21. The appellants are aggrieved with the Council's handling of their application. However, this is a matter between the parties and is outside the remit of the appeal. I have only had regard to the planning merits of the case, on the basis of the evidence that is before me.

Conclusion

22. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
23. For the reasons given above the appeal should be dismissed.

L C Hughes

INSPECTOR