



---

## Appeal Decision

Site visit made on 27 August 2025

by **J Smith MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 September 2025

---

**Appeal Ref: APP/W4325/W/25/3364254**

**92 Newton Cross Lane, Newton, Wirral CH48 9XQ**

- 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 Carl Marsden against the decision of Wirral Metropolitan Borough Council.
  - The application Ref is APP/24/01381.
  - The development proposed is infill detached dwelling.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council note that the Wirral Local Plan was adopted on the 31st March 2025 (WLP) and now makes the development plan for Wirral Metropolitan Borough Council. I have therefore given full weight to the relevant policies of this development plan in my decision.

### Main Issues

3. The main issues are:
  - the effect of the development upon the character and appearance of the area; and,
  - the effect upon the living conditions of the occupants of 94 Newton Cross Lane, with specific regard to privacy.

### Reasons

#### *Character and appearance*

4. The appeal site is situated within the garden area of 92 Newton Cross Lane, positioned between the host property and No. 90. No. 92 represents an older style of construction, distinguishing it from adjacent properties. It comprises a two-storey detached cottage set within a notably larger plot which provides a visual separation from its neighbours. Its front facing elevation and grounds are also somewhat symmetrical. This building is also lower in height than its neighbours.
5. The neighbouring buildings on the same side of Newton Cross Lane consist predominantly of semi-detached houses, which were developed more recently than No. 92. Conversely, the opposite side of Newton Cross Lane features a varied streetscape, including terraced houses and detached bungalows. As such, the surrounding area presents a diverse mix of property types, styles, and scales.

6. Whilst No. 92 is not a heritage asset, it is a notable point of reflection and transition between this older building and the newer properties along Newton Cross Lane. It is the only property of its type within this location. As such, this provides a positive contribution to the otherwise typical character and appearance of an area of mixed dwelling typologies and appearances.
7. The proposed development would comprise of a detached dwelling, with a dormer in the roof to provide living accommodation across three floors. The front elevation would host a double bay window, which is reflective of the semi-detached dwellings on this side of Newton Cross Lane. It would also be of a similar height to the semi-detached dwellings in this location.
8. However, the close proximity of the proposed development to No. 92 would result in a visually constrained arrangement. This would be further exacerbated by its marginally greater height, which, when combined with its limited separation, would erode the visual prominence of No. 92 as a transitional and focal element within the streetscape. This would undermine the distinctive and focal character of the host property and its role in differentiating its older appearance from the more contemporary dwellings along Newton Cross Lane.
9. To conclude, the proposed development would conflict with Policies WS 6, WS 7, WD 10 and WD 23 of the WLP. Collectively, these policies seek for development proposals to enhance and compliment the character of the area and acknowledge its local context, amongst other things.

#### *Living conditions*

10. 94 Newton Cross Lane is located behind the appeal site. The appellant has supplied a satellite image of the relationship between the appeal property and No. 94. No. 94 hosts a set of glass doors, a normal sized window and a glazed conservatory structure. The evidence also suggests that a patio area is located between the appeal site and this neighbouring building. These are areas of a property which are generally used for relaxation and as such, it is reasonable to expect a degree of privacy to these spaces.
11. The first floor of the proposed development would contain a bedroom with a rear facing window. This is a habitable room where its occupant would spend a significant amount of time. This room would face onto these windows, but most importantly, the rear conservatory and patio space of No. 94. It would not be at such an angle to be considered as being an indirect view. As such, this would allow clear visibility, over a short distance, into these windows and onto this space at a detriment to their privacy.
12. It is contended that existing boundary treatments, along with a shed which is owned by No. 94, would obstruct the conservatory from view. However, during my site visit, I observed that these sheds were single storey in height. This would not restrict the view into the conservatory of No. 94 from the proposed first floor rear bedroom. The appellant also notes that the aerial imagery suggests that the majority of the amenity space which serves No. 94 is to the other side of the property. Whilst there is no definitive evidence to come to a view on how these spaces are used, this would not overcome the harm to overlooking into the conservatory and glazed elements of this neighbouring property.

13. The appellant is of the view that to remove this effect on the privacy of No. 94, a condition could be imposed for the first-floor rear windows, including the rear bedroom, to be obscurely glazed. This is an approach that the Council did suggest that they would have taken to a stairwell window in the side elevation which would face 90 Newton Cross Lane. However, this rear elevation would contain a bedroom. As explained above, this is a habitable room where its occupants would spend a significant amount of time in. The provision of obscure glazing to this room would likely have a negative effect upon the living conditions of the future occupants of the proposal. Therefore, the use of such a condition would not be an appropriate mechanism in this instance.
14. To conclude on this main issue, the proposed development would therefore conflict with Policies WS 6, WS 7, WD 10 and WD 23 of the WLP. These policies, amongst other things, seek for development proposals to provide a high standard of amenity for existing occupiers, particularly through the avoidance of a loss of privacy, whilst following an established set of placemaking principles in the local context.

### **Other Matters**

15. Since the submission of this appeal, both parties have recognised that following the adoption of the WLP, developer contributions would now be required from this development. As I have dismissed the appeal against the main issues listed above, I have not reached a finding on this matter.

### **Planning Balance and Conclusion**

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework indicates that a decision should be taken in accordance with the development plan.
17. I acknowledge that the proposed development would provide one additional unit to the supply of housing. In an era of a national housing shortages, every home matters. This unit would provide a small, but nonetheless important contribution to the supply of housing in an accessible location. The proposal would attract positive economic benefits during the construction phase. The future occupiers would also provide economic benefits to the local area once the development would be complete through their use of local shops and services. These matters attract moderate weight in my decision. The absence of a conflict with policy in relation to other planning matters is an absence of harm.
18. However, in my overall consideration of the scheme, these benefits are modest. They do not outweigh the harm I have found above in relation to character and appearance and living conditions. There are no material considerations of such weight or significance before me as to justify a decision otherwise than in accordance with the development plan.
19. For the reasons given above, the appeal should be dismissed.

*J Smith*

INSPECTOR