



Appeal Decision

Site visit made on 4 November 2025

by Ann Veevers BA(Hons) Dip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2025

Appeal Ref: APP/W4325/W/25/3371411

33 Boundary Road, Port Sunlight, Wirral CH62 5ER

- 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 Port Sunlight Village Trust against the decision of Wirral Metropolitan Borough Council.
 - The application Ref is APP/24/01765.
 - The development proposed is change of use from residential (Class C3) to commercial (Class E).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the company name of the appellant in the banner heading above. The description of development on the application form appears to contain extensive arguments in support of the proposal. These are not acts of development in themselves. I have therefore used the description from the Council's decision notice that adequately describes the proposal, and I note this was used by the appellant in the appeal submission. As such, I am satisfied that no parties' interests have been prejudiced by this approach.
3. Following the refusal of the planning application, the Council adopted the Wirral Local Plan 2022-2040 on 31 March 2025 (WLP). As such, the policies of the Wirral Unitary Development Plan 2000 (UDP) referred to in the decision notice are no longer part of the development plan. Accordingly, I have determined the appeal against the relevant policies of the new WLP that now carry full weight. Both parties have had the opportunity to comment on the relevant policies through the appeal process.
4. The appeal site, 33 Boundary Road, is a Grade II listed building known as 'Careers Office' on the List Entry¹. The site is also within the Port Sunlight Conservation Area. No internal or external alterations are proposed to the building. I am aware that the Council did not refuse the application on the basis that the proposal would not preserve the listed building's special interest and harm its significance; nor that it would harm the character and appearance of the conservation area. However, as decision maker, I have a statutory duty under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses; and under s72(1) of the Act, I

¹ National Heritage List for England: List Entry Number: 1075481

have had special regard to the desirability of preserving or enhancing the character or appearance of the conservation area.

Main Issues

5. The main issues are the effect of the proposal on:
- the vitality and viability of New Ferry local centre;
 - the living conditions of neighbouring residents, with particular regard to noise and disturbance; and,
 - the character of the surrounding area.

Reasons

New Ferry local centre

6. The appeal site (No.33) is a two storey property located outside but close to New Ferry local centre as defined in the hierarchical approach to town centres set out in Policy WS11 of the WLP. The property is currently vacant, but it is common ground between the parties that, since planning permission was granted for a change of use from commercial (office) to residential in 2008², its lawful use is residential.
7. The proposal involves the change of use of No.33 back to commercial use. While no specific occupant has been identified, the description provided in the application form refers to the proposed use of the whole property as a retail premises under Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (the UCO). However, I note the appellant also seeks flexibility for other uses within Class E and interest has been shown for uses such as artisanal workspace, artist studio and offices.
8. Policy WS11 of the WLP sets out the Council's strategy to support the vitality and viability of town, district and local centres as community hubs for a range of retail, recreational, cultural and community uses. Part G of Policy WS11 states that development proposals for main town centre uses that are edge of centre or outside a town, district or local centre (as is the case in this appeal) will only be permitted where three criteria are met. Firstly, it must be demonstrated that there are no alternative, suitable sites available within or at the edge of a local centre in line with a sequential test. No sequential test has been submitted, and I saw at my site visit, albeit a snapshot in time, that there were several vacant commercial premises within New Ferry local centre. The proposal therefore conflicts with this criterion.
9. Secondly, it must be demonstrated that the site is easily accessible by a choice of means of transport and is well connected to the local centre. Due to its proximity to New Ferry local centre, nearby train stations and bus routes along New Chester Road and Boundary Road, the proposal would comply with this criterion.
10. Thirdly, it must be demonstrated that the proposal would not undermine the vitality and viability of existing centres. Even though the size of No.33 would not meet the 350 square metres (gross) threshold for the requirement of an impact assessment set out in Part H of Policy WS11, there is no compelling information before me to

² Local Planning Authority reference: APP/08/05615

be certain that an additional commercial premises outside a local centre would not undermine the vitality and viability of the local centre. This is highly pertinent in this case, being mindful of the number of vacant properties within New Ferry local centre and that the size of the local centre allocation has been reduced in the WLP from its previous size in the UDP. I am told this is because of 'reduced retail levels'³ and therefore an oversupply of commercial units in this local centre.

11. I acknowledge that the proposal would broaden opportunity to bring the building back into beneficial use, that its original use was commercial and that its accessible location within a conservation area would be attractive to potential occupants. Nevertheless, these do not alter the requirement to determine the appeal in accordance with the development plan. Given that there are many units within New Ferry local centre that are currently vacant, I cannot be certain that there are no other potentially sequentially preferable sites within the local centre that would be both suitable and available (or expected to become available within a reasonable period) for the proposed use. Consequently, these matters do not outweigh my conclusion on this main issue that the proposal would harmfully affect the vitality and viability of New Ferry local centre.
12. As such, the proposal would conflict with Policy WS11 of the WLP and paragraph 91 of the National Planning Policy Framework (the Framework), both of which require that main town centre uses outside a local centre demonstrate their suitability through a sequential test and do not undermine the vitality and viability of existing centres.

Living conditions

13. The appeal site adjoins 31 Boundary Road (No.31) and is close to neighbouring 35 Boundary Road (No.35). Both of these properties are in residential use, although at the time of my site visit, No.35 appeared to be vacant.
14. Mindful of the appellant's desire for flexibility to market the property for a range of uses within Class E, this could include retail, café/restaurant, financial and professional services, medical services, a creche/nursery, offices and research uses and indoor sport/recreation use.
15. Given its size and layout, No.33 would be unlikely to lend itself in practical terms to the full range of uses within Class E. Although I do not consider the range of uses within Class E to be fundamentally incompatible with residential uses, because of the speculative nature of the proposal and the lack of information about matters such as hours of operation or number of employees, I cannot be certain of the level of noise that would be likely to be generated from a Class E use, or whether any noise mitigation would be necessary. What is clear to me is that the property sits between residential properties and some Class E uses could reasonably be expected to attract a considerable number of people both in and around No.33 and thus increase the comings and goings of customers and staff to the appeal property.
16. While the appellant has indicated that the proposed use would not give rise to any noise and disturbance, there is no compelling information before me to confirm whether or not potential internal or external noise levels from customers,

³ Paragraph 8.3.4 of the Council's delegated officer report.

employees and other operations of a Class E use would compromise the living conditions of occupiers residing at No.31 and No.35.

17. I acknowledge that No.33 was previously in commercial use firstly, as detailed by the appellant, as a shop and then as offices and was linked to No.31. The site is also close to the local centre, a car park, and is opposite a bus stop. Be that as it may, No.33 has been in separate residential use for approximately 17 years and is within a row of other residential properties. In those circumstances the previous commercial use is a matter of limited weight to my considerations in this main issue.
18. Part A.1 of Policy WD23 of the WLP advises that proposals must take account of the amenity of the development's users and neighbours and will be required to demonstrate proposed uses will be harmonious with neighbouring uses, avoiding unacceptable noise and disturbance. For the reasons set out above, despite previous commercial use which may have existed prior to the occupation of No.31 and No.35 by the current residents, there is insufficient evidence to be certain that a Class E use of No.33 would not give rise to unacceptable noise and disturbance to those neighbouring residents.
19. I have carefully considered whether it would be appropriate to impose conditions to restrict the property to a specific use within Class E or restrict hours of operation, in the event that I were to allow the appeal. However, in acknowledging the tests at Paragraph 56 of the Framework as no sufficiently detailed information about the use of the building nor evidence to enable a full assessment of its potential effect of noise is before me, I cannot be certain that a suitably worded condition would meet the tests.
20. To conclude on this main issue, I am not satisfied on the evidence before me that potential noise and disturbance that could be generated by the Class E use of No.33 would not adversely affect the living conditions of neighbouring residents, particularly occupants of No.31 and No.35. Accordingly, the proposal would conflict with Policies WD23 and WD10 of the WLP which both, amongst other things, seek that proposals for non-residential uses within residential areas should not result in unacceptable impact on neighbouring uses, such as noise and disturbance.

Character

21. Boundary Road is a bus route and comprises of residential properties and parcels of greenspace. The area to the south, including Circular Road, Pool Bank and Primrose Hill is also residential in character. Immediately north of Boundary Road behind a row of properties and a service road, is a public car park. From what I saw, this generally functions to serve commercial premises within New Ferry local centre, which is focused around New Chester Road and Bebington Road, a short distance from the appeal site. Therefore, although the appeal site lies within a Primarily Residential Area as identified by Policy WD10 of the WLP, a reasonable level of activity is apparent from traffic and pedestrians using Boundary Road.
22. No.33 is a Grade II listed building dating from circa 1905. It comprises a roughcast, two-bay, two-storey building with an attic window under a large gable. It has two distinctive bowed small-paned windows at ground floor with timber pilastrade and central pedimented entrance which reflect its historically designed shop use. No.33 also has group value being attached to the terraced row of 13 to 31 (odds)

Boundary Road, a Grade II listed building, and adjacent to No.35 which was also historically designed as a shop and still retains its former shop bay window.

23. From the evidence before me, the special interest and significance of No.33 is largely derived from its architectural and historic interests in illustrating a well-preserved example of an early 20th century commercial property. Important contributors in these respects which are pertinent to the appeal are its use of traditional methods of construction and materials; surviving historic fabric and features; pleasing architectural form; and its group value with adjacent listed buildings, contributing to the composition and character of the historic villagescape.
24. The appeal site also occupies a position on the edge of Port Sunlight Conservation Area (PSCA). The PSCA is a planned garden village conceived by William Lever to house the workers of his soap and chemical works. From the submitted information and my own observations, the character and appearance of the PSCA mainly stem from the preservation of the planned pattern of development, combined with the variety and architectural richness of its historic buildings and public parks which denote its evolution, all set in an urban context within walking distance of the main Lever industrial works.
25. The appeal site retains a number of interesting features which are reminiscent of its historic use as a shop and demonstrate the quality of the building. On its own, the building therefore has historic value. It also contributes to the wider streetscene, forming part of a group of buildings which, although different in detailed design, share similarities in their form and scale. Evidence suggests the 'L' shaped blocks of houses on Boundary Road were planned with two shops at either end, those being No.33 and No.35, along with 3 and 5 Boundary Road, all of which have now been converted to dwellings. The heritage merit of No.33 causes it to add considerably to Port Sunlight's historic and aesthetic charm. In doing so it positively contributes to the character and appearance of the PSCA as a whole and thereby to its significance as a designated heritage asset.
26. No internal or external changes are proposed to the building and I agree with both parties that there would be no harm to the appearance of the listed building or the PSCA in this regard. In terms of the character of the area, I recognise Boundary Road and the area to the south is predominantly residential. However, within the PSCA as a whole, I also saw other day-to-day amenities and parks that were specifically planned and constructed during the development of the village, including shops, schools and community buildings. Insofar as relevant to the appeal, the PSCA therefore includes a mix of uses and is thus varied in character. While I accept that the PSCA has seen some changes since its conception, including the conversion of the appeal property and No.35 to residential use, its general character does not appear to have significantly changed, as I witnessed on my site visit.
27. Furthermore, No.33 is located close to the interface with New Ferry local centre and New Chester Road where I consider the character to be more urban, commercial and of a higher built density than the PSCA. Consequently, the prevailing character of the wider area includes a mix of uses. Even if the proposed change of use generated considerable activity and noise as a result of the comings and goings of customers/visitors, in the context of this location, it would not detract from the character of the listed building, the PSCA or the area generally.

28. I conclude on this main issue that the proposal would not be at odds with the character of the area. There would therefore be no conflict with s66(1) or s72(1) of the Act. The proposal would comply with Policy WD10 of the WLP which seeks, amongst other things, that proposals for non-residential and community uses within the Primarily Residential Areas should be of a scale and use appropriate to the surrounding neighbourhood and complement rather than detract from the character of the area.

Other Matters

29. The appellant submits that the proposed use is required to secure the future of the listed building, an important building within the PSCA. It is argued that, as a residential property, it is difficult to let because of its location along a main road and opposite a bus stop. It is also suggested that the building is difficult to heat and that its overall layout and fenestration arrangement does not function well as a residential unit due to the large 'shop' windows on the front elevation, lack of windows on other ground floor elevations, and lack of privacy.
30. Although I acknowledge No.33 has little garden frontage and is opposite a bus stop, buses are transient and unlikely to operate through the night. It is not uncommon in many areas for bus stops to be located along residential roads close to front facades. Boundary Road is not a residential cul-de-sac, but neither is it in my view, a main road. Furthermore, from what I saw inside No.33, the bay windows, whilst distinctive, include secondary glazing and large windows are not uncharacteristic features on other residential properties within the PSCA, as I could see along Pool Bank. I also saw that each bedroom has two windows, one of which is front-facing with a radiator below and in my view, it is not unreasonably low. It is inevitable, in certain circumstances where a property is located close to the pavement, that its frontage is more visible than others within the public realm.
31. In terms of heating, I am advised the property has an EPC rating of E⁴ which is low, and I saw that part of each bedroom ceiling was relatively high. Nevertheless, the claim that the property is damp and that thermal efficiency in relation to a residential use could only be improved with significant internal alterations, which would harm the legibility of the listed building, has not been supported by substantive evidence.
32. I acknowledge that the proposal could secure the occupation of a currently vacant heritage asset in an accessible location which would be of significant positive weight in the planning balance. There would be some economic and social benefits brought about through the investment into the property and its commercial use.
33. However, I am not convinced from the information before me that the only way to ensure the building's occupation and long term conservation would be via the change of use proposed or that commercial use of the property would not also require similar improvements in respect of thermal efficiency. No compelling evidence has been presented which verifies that the building's conservation as a designated heritage asset would be at risk if the appeal were to fail. Therefore, given the relatively small scale of the development, the weight attributable to the benefits is limited and is not sufficient to outweigh the harm that I have identified and the conflict with the development plan as a whole.

⁴ Energy Performance Certificate

34. I note that no objections have been raised to the proposal. However, this is not a benefit of the appeal scheme, but rather a neutral factor in the planning balance.
35. My attention has been drawn by the appellant to other areas of the PSCA where mixed commercial and residential uses sit alongside each other, including a garden centre, cafes, museums and office space. I do not have full details of these other developments and the considerations at the time of them being given permission. The circumstances in each proposal are likely to be different, and in any event the fact that apparently similar development has been granted permission is not a reason, on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Conclusion

36. 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.

Ann Veevers

INSPECTOR