



Appeal Decision

Site visit made on 24 November 2025

by E Fawcett BA (Jt Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2026

Appeal Ref: APP/W4325/W/25/3371144

**Cornerwood, Land to the rear of 14 Stokesay, Prenton, Birkenhead, Wirral
CH43 7PU**

- 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 Mrs Jacqueline Moore against the decision of Wirral Council.
 - The application Ref is APP/24/00369.
 - The development proposed is a single dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Wirral Local Plan 2022 to 2040 (the Local Plan) was adopted on 31 March 2025 following the refusal of the planning application. This now forms part of the statutory development plan and replaces policies of the Wirral Unitary Development Plan (2000), and I have therefore had due regard to this in my decision. The Council's decision notice includes reference to emerging policies of the Local Plan and the Council has confirmed that these are the most relevant to the decision. I am satisfied that both parties have been provided with the opportunity to make representations on these policies.
3. The Council has also confirmed that Supplementary Planning Guidance Note (SPG) 10: Backland Development has been retained, however SPG 2 and SPG 17, which are also referenced in the decision notice, have been withdrawn. Whilst the appellant considers that the site would not comprise backland development, SPG 10 defines this as land behind existing houses which front a road, including large gardens or land in other uses. As the appeal site falls within this definition, I have applied the provisions of the SPG.
4. Discrepancies exist between the elevation plans and the floor plans, in respect of the proposed balcony, and also between the external works plan and the proposed site plan. However, I have enough detail before me to form the basis of my overall planning assessment. Had I been allowing the appeal, I would have pursued this matter further with the parties.

Main Issues

5. The main issues are:
 - Whether the proposal would provide acceptable living conditions for the future occupants, with particular regard to outlook, daylight and sunlight;

- The effect of the development on the character and appearance of the area, with particular regard to the effect on protected trees;
- The effect of the development on the living conditions of the occupants of Foxearth with particular regard to privacy; and
- The effect of the proposal on protected species, with particular regard to bats.

Reasons

Living Conditions of Future Occupants

6. The Council's first reason for refusal relates partly to the impact of the development on residential quality. From the officer report, I have identified that this relates to the effect on living conditions, in particular relation to outlook, daylight and sunlight.
7. The appeal site is located to the rear of existing residential properties. Land levels within the site fall significantly to the west from an area of hardstanding situated to the rear of 14 Stokesay. The boundary with this neighbouring property comprises a tall evergreen hedgerow above a low wall. Much of the appeal site is wooded in character, containing a significant number of trees and forms part of a larger wooded area which is collectively covered by a Tree Preservation Order.
8. The proposed dwelling has been designed as a split-level property, responding to the change in land levels, with a mono-pitch roof, making it single storey at the front and 3-storey at the rear. The front elevation partly faces the boundary with 14 Stokesay and the substantial evergreen hedgerow. The outlook from the only window serving a study would be dominated by this hedgerow which would appear overbearing to users of this room due to its height and proximity. It is not unreasonable to expect that future occupants would spend a significant amount of time during the day using this room.
9. Most of the outlook from the dwelling would be to the rear, facing towards retained trees to the west, including the wider wooded area which extends beyond the site boundary. Whilst some trees are proposed to be removed to accommodate the development, there are several individual trees proposed to be retained close to the proposed built development, in addition to those that make up a larger woodland group. Many of these exceed 10 metres in height and, collectively, would likely form a dense screen during summer months.
10. Due to the number, height and proximity of the trees to be retained, daylight and sunlight to the rear rooms of the proposed dwelling would be significantly restricted. This impact would be most pronounced in the lower ground-floor rooms, including a large living space, which relies solely on rear facing windows and is likely to be used for significant periods during the day. The proposed patio and lawned garden at the rear would be closer to the retained trees and woodland group, and would likewise experience reduced daylight and significant overshadowing. Whilst the trees would provide a cooling effect in the height of summer, overall, rooms would be unduly gloomy, and the patio and lawn area less inviting and usable due to being heavily shaded.

11. Overall, the development would be unreasonably affected by its proximity to trees and boundary vegetation. This would result in living conditions that fall below a standard that future occupants could reasonably expect.
12. The appellant has referred to the BRE 'Site Layout Planning for Daylight and Sunlight: A guide to good practice (2022)' and provided some details regarding hours of sunlight at the appeal property, including an associated diagram. However, this information is general and does not include any detailed assessment relating specifically to the proposed development and the context of the site. From the evidence available to me, I am not satisfied that the proposal would provide an acceptable level of daylight or sunlight for the future occupants.
13. The Council has referred to its SPG 10 in the decision notice, which relates to proposals for backland development. However, this does not contain any guidance specific to the living conditions of future occupants, and I find no conflict with this SPG in respect of this main issue.
14. Nevertheless, I conclude that the proposal would fail to provide acceptable living conditions for the future occupants, with particular regard to outlook, daylight and sunlight. It therefore conflicts with Policies WS 7 and WD 23 of the Local Plan which, amongst other things, require development to provide a high standard of internal and external amenity including adequate sunlight, daylight and open aspects to all parts of the development.

Character and Appearance

15. The trees within and adjacent to the appeal site collectively create a pleasingly verdant, woodland setting making a positive contribution to the character and appearance of the site and the surrounding area. There are several trees close to the proposed development. Of these, 3 trees (T12, T20 and T23) have been identified in the appellant's Arboricultural Report and Arboricultural Impact Assessment (AIA) as category B, being of moderate quality and value with reasonable life expectancy. The larger group (G25) is identified as category A, being of high quality and value with a good life expectancy, and having a moderate amenity value.
16. T12 stands close to the proposed parking area, and its well-developed canopy would extend over both the parking spaces and the proposed lawn to the side of the dwelling. T20 is located near the proposed rear lawn and, at around 14 metres in height, is a substantial tree with a canopy that would partly overhang the formal garden space. T23 is slightly shorter and positioned a little farther from the proposed built development than T20, but it remains a large tree and is situated to the south of the formalised garden area.
17. The Council has found no unacceptable harm, subject to conditions, in respect of the works proposed to trees, and the evidence does not lead me to a different conclusion. Nevertheless, as I have described above, daylight and sunlight would be restricted to rooms at the rear of the dwelling and the proposed patio and lawned garden would be overshadowed, due to the height, number and proximity of the retained trees. As a result, this is likely to result in significant pressure for trees to be pruned or felled in the future, thereby undermining their long-term retention. In particular, there would be significant pressure on T12, T20 and T23 due to their proximity to the built development, but also to trees within the larger group (G25) due to their height.

18. Whilst the appellant has set out that their main incentive to developing the land is to live within nature and enjoy the outlook onto the trees, this may not be the case for other potential occupants in the future. Furthermore, the appellant or prospective house purchasers may place a high value on the contribution that the trees make to the setting of the property, failing to appreciate the implications and potential problems of living next to a wooded area containing a significant number of tall trees until the dwelling is occupied. It would be difficult for the Council to resist applications to prune or fell trees in circumstances where safety is an issue, or where damage is being sustained to a property.
19. The appellant has suggested ways to increase natural light within the proposed dwelling. Whilst such measures might improve light levels in parts of the building, there are no specific proposals before me, and I am not satisfied that such proposals could fully alleviate the pressure on the trees, given their height and proximity to the development.
20. Although views of these trees from outside the site are limited, the proposal results in a reduction of tree cover, and any further loss would harm the character and appearance of the appeal site and the wider area. This includes the broader woodland protected by the Tree Preservation Order, of which several of the affected trees form an important component. Whilst several properties in this area are affected by their proximity to trees, this does not lessen the pressure on the trees in this location as a result of the proposed development.
21. The appellant has indicated a willingness to plant additional trees to compensate for those to be removed. However, this would not address the potential loss of further trees once the site is occupied, and the newly planted trees could themselves come under pressure, particularly given the extensive tree and woodland cover across the site. I also acknowledge the appellant's intentions to improve woodland management, but this does not eliminate the increased pressure the development would create for the removal or pruning of retained trees. Even if secured through a condition or legal agreement, the prospect of improved management does not outweigh this concern.
22. In respect of this main issue, the decision notice references SPG 10 which is relevant in so far as it includes guidance to ensure that as many trees as possible are retained in respect of backland development. Whilst there are trees proposed to be retained as part of the development, the proposal would increase pressure for the removal of additional trees, thereby not ensuring their retention once the development is occupied. Therefore, there is some conflict with this SPG.
23. In relation to this main issue, I conclude overall that the proposed development would have a harmful effect on the character and appearance of the area, with particular regard to the effect on protected trees. It therefore conflicts with Policies WD1 and WS7 of the Local Plan which, amongst other things, collectively seek to positively enhance the character, appearance and setting of the surrounding area, substantially preserve the wooded character of the site or surrounding area, and avoid pressure in respect of retained trees for their removal or reduction.

Living Conditions of Foxearth

24. The appeal site is situated to the rear of several residential properties. Foxearth, located to the south, has a conservatory, windows and garden area facing north towards the site. The proposed dwelling includes a large balcony with a glass

balustrade extending across the rear elevation at ground-floor level. Whilst the balcony has not been included on the proposed floor plans, its position is clear from the proposed elevation plans. Due to changes in land levels and the design of the building, this balcony would appear as a first-floor feature when viewed from the rear.

25. As a result of the balcony's position close to the boundary with Foxearth, and its elevated height, occupants of the proposed dwelling would be able to overlook both the garden and parts of the dwelling at Foxearth. This would lead to a significant loss of privacy for its occupants. Consequently, the proposal would conflict with the guidance in SPG 10, which states that new dwellings should not significantly affect the amenity of existing dwellings through loss of privacy. Although reference has been made to possible alterations to the balcony to address this matter, no such amendments have been submitted as part of the appeal, and it is important that I consider the same proposals that were before the Council when it made its decision, and on which interested parties' views were sought.
26. I therefore conclude that the proposed development would have a harmful effect on the living conditions of the occupants of Foxearth with particular regard to privacy. The proposal therefore conflicts with Policy WD 23 of the Local Plan which, amongst other things, seeks to ensure that development avoids overlooking and loss of privacy, detrimental to living conditions of neighbouring residents.

Protected Species

27. The appeal proposal includes pruning to the roots of 4 individual trees and 1 group, as acknowledged in the appellant's AIA, including those identified as T10, T12 and T23. The appellant's Preliminary Ecological Appraisal (PEA) sets out that further assessment is required (FAR) in respect of these 3 trees. It goes on to recommend that, for the pruning or felling of T12 or T23, a close-up inspection of the trees will be required to determine their suitability for bats and, following this inspection, the trees will then be re-classified and further surveys may be required to determine the presence or likely absence of bats. Whilst there is no further reference to T10, as this has also been classified as FAR, it is likely that further inspection would also be required were this tree to be pruned or felled. The evidence therefore indicates that there is a reasonable likelihood of bats being present and affected by the development.
28. In respect of T23, both the Council and appellant have stated that works to this tree are no longer likely required. The appellant has also set out that they previously advised the Council that the works to T10 and T12 were also not required. Nevertheless, the AIA before me sets out that pruning works are proposed to trees T10, T12 and T23 and the PEA clearly identifies that further investigation is required if these trees are to be pruned.
29. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (as amended) requires a competent authority to have regard to the requirements of the associated Directive so far as it may be affected by the exercise of its functions. This includes any proposal that might lead to the deterioration or destruction of the breeding sites and resting places of European Protected Species (EPS) under Article 12(1)112. This includes bats and the places that they roost, and I have therefore had regard to this in my decision.

30. The evidence before me does not confirm the presence or otherwise of bats in respect of the trees where pruning works have been proposed within the appellant's AIA to facilitate the development. Whilst the works are proposed to the roots of the trees, if bats are present, such works have the potential to cause disturbance to roosting sites. Therefore, I cannot be certain that the proposed development would not cause harm to an ESP, or whether such harm could be appropriately mitigated. The appellant has suggested that a condition could be used to ensure that surveys be undertaken prior to commencing any works on site. However, such an approach would fail to ensure that all relevant material considerations are addressed in making a decision, and the presence of bats could impact on the ability to undertake the proposed development.
31. I therefore conclude that, in the absence of substantive evidence to demonstrate otherwise, the proposed development would have a harmful effect on protected species, with particular regard to bats. The proposal therefore conflicts with Policies WS 5 and WD 3 of the Local Plan which, amongst other things, seeks to ensure that impacts to protected species are avoided, mitigated or compensated where appropriate.

Other Matters

32. The Council has identified that a financial contribution would be required towards open space and outdoor sport and recreation facilities, in line with Policy WD 24 of the Local Plan. This requirement arose after the planning application was determined, following the adoption of the Local Plan. As I am dismissing the appeal, I have not considered this matter further.
33. The appellant has referred to earlier planning applications relating to the appeal site, although it has been clarified that the more recent approval cited relates to neighbouring land. I have no details of the historic approval for the appeal site, with which to draw comparisons to the scheme before me, but planning policy and site circumstances are likely to have changed since that decision.
34. The appellant has also referred to other residential schemes in the vicinity which they consider comparable. However, I have limited details of these sites and proposals before me, and therefore cannot draw any direct comparison with the appeal scheme. I also acknowledge the appellant's concerns regarding the Council's handling of the application, including reliance on an earlier Inspector's decision, the absence of objections from the Council's Tree Officer, and previous pre-application advice. Nevertheless, I have considered all the evidence before me and have assessed the appeal on its own merits, and these matters do not alter my findings on the main issues. Matters raised including trespass and land ownership are outside my remit to determine this appeal in accordance with planning law.

Planning Balance and Conclusion

35. Although the proposal would not result in unacceptable harm in respect of highway safety, parking, design and drainage, these considerations are neutral in the overall planning balance.
36. The scheme would provide a new dwelling that would contribute to meeting local housing needs and support the Government's objective to significantly boost the supply of homes. In their planning statement, the appellant has made reference to

the Council being unable to demonstrate a 5-year supply of deliverable housing sites, however no detailed evidence has been provided by either party on this matter. Even if the Council cannot currently demonstrate a sufficient supply of housing land, a single dwelling would make a limited contribution to the Council's housing supply, and therefore represents only a small benefit.

37. The dwelling is also described as self-build, the value of which is recognised by the National Planning Policy Framework (the Framework). Nonetheless, based on the evidence before me, should planning permission be granted, no mechanism, such as a signed legal agreement, would exist to guarantee the proposed dwelling would be constructed and occupied as a self-build. Accordingly, I can only attribute limited weight to the self-build nature of the appeal proposal.
38. In this case, the harm to living conditions would be significantly felt by neighbouring and future occupiers. There would also be considerable pressure and resulting harm to protected trees, and I cannot be certain that harm would not be caused to protected species. Whilst there is a great need for new housing, the adverse impacts in this case would therefore significantly and demonstrably outweigh the relatively small benefits that would arise.
39. For the reasons given above, I conclude that the proposal would conflict with the development plan and there are no material considerations that would outweigh this conflict. Therefore, the appeal is dismissed.

E Fawcett

INSPECTOR