



Appeal Decision

Hearing held on 29 September 2009
Site visit made on 29 September
2009

by **Christopher Thomas BSc (Hons) Dip
TP MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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**Decision date:
13 October 2009**

Appeal Ref: **APP/W4325/A/09/2106770** **2-2a Village Road, Oxton, Wirral, CH43 5SR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is made by Mr M Hercules against the decision of Wirral Metropolitan Borough Council.
- The application (Ref. APP/2009/5057), dated 9 January 2009, was refused by notice dated 22 May 2009.
- The development proposed is demolition of existing building and 2 bed residential unit and erection of 3.5 storey building comprising of 4 No. retail units, 8 No. offices and a single residential unit.

Procedural matters

1. The application was amended during the course of consideration by the Council. The amended plans and drawings on which the Council made its decision have been the subject of publicity in connection with this appeal and therefore I do not consider that third parties have been prejudiced. Accordingly the plans and drawings I have taken into account in reaching my decision and the dates on which they were submitted to the Council are 180.loc (as originally submitted), 180.sk (20/5/09), 180.opt1 (14/4/09), 180.10 (as originally submitted), 180.11c (20/3/09), 180.13e (20/3/09), 180.14e (20/3/09), 180.15c (20/3/09).
2. The demolition of the previous building(s) on the site has already taken place and I have therefore proceeded to consider only that element of the proposal related to the erection of new development.

Decision

3. I dismiss the appeal.

Main issues

4. In formulating the main issues I have taken into account the discussion at the hearing and the material considerations which have a bearing on this appeal including the statutory requirement for me to consider whether the proposal would enhance or preserve the character or appearance of the Oxton Conservation Area, within which the site lies.
 5. Accordingly, I consider the main issues are whether the proposal would enhance or preserve the character or appearance of the conservation area and, whether by reason of its size, height and siting the proposal would result in an unneighbourly form of development thereby harming the living
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conditions which the occupiers of neighbouring properties could reasonably expect to enjoy.

Reasons

Character and appearance of conservation area

6. The appeal site lies in a prominent location within the closely knit retail and commercial centre of Oxton which has developed around the junction of Village Road, Rose Mount, Christchurch Road, Palm Hill and Claughton Firs. A terrace of three storey Victorian buildings fronting onto Christchurch Road, with shops at ground floor and living accommodation and/or storage above, adjoins the site on one side. On the other side of the site is a detached two storey house at No.4 Village Road, which itself adjoins a terrace of four linked houses set back on a similar though staggered building line. Jarrow Close is a compact development of two storey houses served off Village Road which lies to the north of the appeal site. The rear boundary of the appeal site is shared with part of the side boundary to No.2 Jarrow Close.
7. The proposal envisages the construction of four shops with 8 No. offices and a residential unit above in a 3.5 storey building. The block would be set on a staggered building line which seeks to provide a transition between the frontages of No.62 Christchurch Road and No.4 Village Road. To the front of the site there would be a controlled service access which would be combined into a paved pedestrian forecourt with seating. The ATM machine and its housing located on the side gable of No.62 Christchurch Road would remain, as would the mature tree to the front of the site. A 4 metre wide gated access way leading to the rear of the building and a parking area for 11 vehicles would be provided adjacent to the boundary with No.4 Village Road. An external bin store and cycle store would also be sited at the rear of the building.
8. I consider that this is a sensitive site within the conservation area, both in terms of its significance at the heart of the historic and attractive retail area and its relationship with adjoining land uses. The appellant argued at the hearing that the design of the proposal is sympathetic to its location within the retail centre of the conservation area and that the materials to be used would be appropriate. The appellant clarified that the proposed massing and height of the building had taken its lead from No.62 Christchurch Road and that the siting was influenced in part by the requirements of the forecourt layout incorporating the servicing arrangements.
9. On behalf of The Oxton Society it was said that the proposal would make a positive contribution to the conservation area, that it would be appropriate to the function of the village centre and that the design successfully reconciles the Victorian facades with the more modern appearance of the houses on Village Road. The Council did not dispute these views. Some local residents considered that the character of the conservation area would not be enhanced by the proposal and argued in favour of a much smaller and mainly residential development.

10. It seems to me that the mixed use nature of the scheme would be appropriate to the character of the retail and commercial area within the conservation area. The design, in my view, rightly seeks to blend the proposal with the existing 3 storey buildings to one side. However, despite the stagger and the slightly lower level of the proposed building adjacent to No.4 Village Road in my judgement the height and massing of the proposal would fail to provide sufficient visual transition to the much lower residential properties along Village Road and in Jarrow Close.
11. Whilst the proposal would therefore meet the principal planning objective of retaining visual coherence within the retail area in terms of elevational treatment and design of shop fronts, as identified in policy CH7 of the Wirral Unitary Development Plan (February 2000) [UDP], it would create a significant discontinuity in the street scene in juxtaposition to the adjacent residential properties which I conclude would neither enhance nor preserve the character or appearance of the conservation area.

Living conditions

12. The Council's primary concern with the proposal, which was confirmed at the hearing, is that it would be overbearing because of its height, massing and siting, particularly in relation to the effect on the living conditions of the occupiers of the neighbouring properties at No.4 Village Road and No.2 Jarrow Close. The Council also indicated that it considered noise and general disturbance would cause harm for the neighbours resulting from the proximity of the access way and car park to the boundaries of the site. It also identified the possibility of overlooking from the windows of the top two floors at the rear of the building as another source of harm to neighbours' living conditions.
13. In the appellant's judgement any reduction in the height of the building would be detrimental to the appearance of the conservation area. Other options for the shape of the roof on the flank elevation adjacent to No.4 Village Road had been considered but were also not thought to be appropriate to the character and appearance of the conservation area. Three storey buildings were often found adjacent to two storey buildings and the separation distances to No.4 Village Road and No.2 Jarrow Close would ensure that no harm would result to the living conditions of the occupiers of either property.
14. From what I have heard and seen, however, it seems to me that there would be harm to neighbouring residents' living conditions especially by reason of the overbearing effect of the development. This would be particularly the case for the occupiers of No.2 Jarrow Close since the outlook both from the garden and the conservatory at the rear of the house would be of the full width of the north facing rear elevation. The overbearing nature of this elevation would be emphasised by its height and the lower ground level at No.2 Jarrow Close. Furthermore, I consider that even though the rear of the building would be about 16 metres from the common boundary with this property this would not adequately compensate for the adverse effect of the height and massing of the building on the outlook from the garden and conservatory which the occupiers should reasonably expect to enjoy.

15. I have formed the opinion that the severity of the effect of the proposal on the living conditions of the occupiers of No.2 Jarrow Close would not be replicated in relation to No.4 Village Road because of the different relationship between the existing and proposed buildings. Nevertheless, it seems to me that it would be an imposing building which would have a dominating effect on this adjoining property because of its height and massing, even though it would be separated by the width of the access way from the common boundary. Accordingly, I consider the outlook from both the front and rear gardens of No.4 Village Road would be harmed.
16. With regard to the effect on noise and general disturbance the appellant indicated at the hearing a willingness to erect acoustic fencing on the boundaries with the neighbouring properties. I consider this would overcome any possible harm from this source.
17. In relation to possible overlooking from the upper floor windows at the rear of the building the appellant also indicated at the hearing that he would be willing for these to be permanently fixed and obscurely glazed. Again, I consider that these measures would overcome any likely harm through loss of privacy.
18. The Council accepted that if these provisions were made they would overcome its objections on these grounds and I am satisfied that suitably worded planning conditions could have been imposed to this effect should the appeal have been allowed.
19. Although it was argued by neighbours that the proposal would result in overshadowing there was no evidence presented at the hearing on this matter. Whilst the proposed building would be sited to the south of No.2 Jarrow Close it would not be possible to judge with any certainty what effect this would have without the benefit of a sunlight and daylight assessment having been carried out. I have therefore given very little weight to this argument.
20. Notwithstanding that noise and general disturbance and loss of privacy could be controlled by condition I have concluded that the proposal would be unneighbourly in that the living conditions of the occupiers of neighbouring properties would be harmed by reason of the overbearing effect of the development on No.4 Village Road and No.2 Jarrow Close. Accordingly, the proposal would conflict with UDP policy HS15, which deals with non-residential uses in primarily residential areas such as that surrounding the village centre, and which indicates, amongst other matters, that such proposals will only be considered acceptable where they will not be of such scale as to be inappropriate to surrounding development.

Other matter

21. As expressed at the hearing and in third party representations the possible effect of the proposal on the demand for on-street parking spaces in the vicinity of the site is of particular concern to local residents. The Council, however, has raised no objection to the proposal on these grounds.

22. There appears to be a wider problem of parking in the locality, especially in relation to the use of Jarrow Close. In the first instance this is a matter for the Council and others to consider. In my opinion the proposal would make adequate provision for parking in view of the sustainable location of the site and in the light of the appellant's travel plan.

Conclusion

23. I have taken into account all other matters raised at the hearing and in the representations, but for the reasons I have given I have concluded that the appeal should not succeed.

Christopher Thomas

Inspector

APPEARANCES

FOR THE APPELLANT:

Joanna Morgan BSc (Hons), Dip Arch, Martin Fletcher Architects
MPhil, MA (Conservation), RIBA.

Martin Fletcher Architect Martin Fletcher Architects
BA(Hons), Dip Arch, RIBA

FOR THE LOCAL PLANNING AUTHORITY:

Cllr G. D. Mitchell Member of Planning Committee, Wirral MBC

Alex McDougall MSc Planning Officer, Wirral MBC.

INTERESTED PERSONS:

A. P. Alig	On behalf of local resident
L. Taylor	Local resident
Ms D. Gatti	Local resident
D. Charters	Local resident
Mrs V. Buckley	Local resident
J. Willis	Representing the Oxton Society
P. Toosey	Representing the Oxton Society

DOCUMENTS SUBMITTED AFTER THE OPENING OF THE HEARING

- 1 Oxton Conservation area map.
- 2 Policy CH7 Wirral UDP (Oxton Village Conservation Area).
- 3 Revised list of suggested conditions.
- 4 Appeal notification letter.