

Planning Committee

14 October 2021

Reference:
APP/21/01252

Area Team:
**Development
Management
Team**

Case Officer: Ward:
Miss A McDougall Heswall

Location: Windwhistle, 5 RECTORY LANE, HESWALL, CH60 4RZ
Proposal: Creation of 1 No Proposed dwelling (retrospective).

Applicant: Mr T Davies
Agent : SHACK Architecture Ltd

Qualifying Petition: No

Site Plan:



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Development Plan designation:
Primarily Residential Area

Planning History:

Location: Windwhistle 5 Rectory Lane, HESWALL, CH60 9LF
Application Type: Full Planning Permission
Proposal: Creation of 1 No Proposed dwelling.
Application No: APP/20/01516
Decision Date: 11/12/2020
Decision Type: Approve

Location: Windwhistle, 5, Rectory Lane, Heswall. L60 4RZ
Application Type: Full Planning Permission
Proposal: Erection of a detached house and garage.

Application No: APP/91/06068
Decision Date: 30/08/1991
Decision Type: Approve

Location: Site of Windwhistle, 5, Rectory Lane, Heswall. L60 4RZ
Application Type: Full Planning Permission
Proposal: Erection of a detached house, (retrospective permission for revised design).
Application No: APP/92/05783
Decision Date: 17/07/1992
Decision Type: Approve

Location: Windwhistle, 5 RECTORY LANE, HESWALL, CH60 4RZ
Application Type: Full Planning Permission
Proposal: Creation of 1 No Proposed dwelling.
Application No: APP/19/00662
Decision Date: 24/07/2019
Decision Type: Approve

Location: Windwhistle, 5 RECTORY LANE, HESWALL, CH60 4RZ
Application Type: Discharge of Conditions
Proposal: Condition 3: Photos of all facing materials including windows and doors included in document '482_Discharge of Conditions Document.' Physical samples can be made available on site. Condition 6: Details of existing and proposed levels throughout the site are shown on 'B104_Existing and Proposed Site Plan Levels' and listed in document '482_Discharge of Conditions Document' Levels included: Highway level at entrance to driveway, driveway levels (sloped), proposed dwelling finish floor level, existing dwelling finish floor level, patio level and garden level.
Application No: DIS/21/00345
Decision Date: 07/06/2021
Decision Type: Approve (mixed)

Location: 5, Rectory Lane, Heswall. L60 4RZ
Application Type: Outline Planning Permission
Proposal: Erection of two detached dwellings, (outline).
Application No: OUT/90/06605
Decision Date: 13/09/1990
Decision Type: Withdrawn

Summary Of Representations and Consultations Received:

1.0 WARD MEMBER COMMENTS

1.1 *No comments received.*

2.0 SUMMARY OF REPRESENTATIONS

REPRESENTATIONS

26 letters of objection have been received on the following grounds (27 recorded as one was submitted from The Heswall Society addressed below);

- Plans are incorrect
- levels have been increased & impact from an elevated plot
- impact of scale of the building onto neighbouring properties
- overlooking and loss of privacy from the dwelling and the raised patio
- dominant in scale and position
- Disregard of previous planning submissions

CONSULTATIONS

The Heswall Society - Objection raised with regards to height of the building and the impact of the dwelling onto privacy and visual amenity

Highways - No objection (advised an informative prior to construction however the building is complete)

Wirral Footpath Society - No comments

Welsh Water - Advisory notes

3.0 Reason for referral to Planning Committee

3.0.1 The local planning authority has received more than 15 letters of objection to the application (26 letters of objection and 1 letter of objection from The Heswall Society).

3.1 Site and Surroundings

3.1.1 The site forms part of the private amenity space of the application property, No. 5 Rectory Lane. The area proposed for redevelopment is situated south-west of the existing dwelling and forms the southern corner of the existing garden area. The area is screened by areas of mature vegetation.

3.1.2 Rectory Lane is a lower ranking route which runs off Station Road. There is no prescribed architectural style along Rectory Lane.

3.2 Proposed Development

3.2.1 The application proposes to erect a detached dwelling within the rear garden of No. 5 Rectory Lane. It should be noted that the dwelling has been constructed, following previous planning approvals on the site. It was however found that the construction levels had not been adhered to in terms of the approved details and as such a further planning application was requested to address these issues and give interested parties the right to comment on the development as constructed.

3.2.2 The site gained planning approval for one dwelling under planning reference 19/00662 a subsequent application was received 20/01516 for a change to the approved dwelling. Both applications have been approved. The dwelling as built, in terms of design and scale/footprint, is in line with the most recent application 20/01516, albeit the differences relate to the final constructed land levels.

3.2.3 The current application seeks to address concerns relating to the built development on the land in connection with land levels, details of the proposed land levels were included with both previously approved planning applications. The dwelling as built has been constructed on a higher land level, which has resulted in an increase in the finished floor levels (including the finished floor level of the terrace) and ridge line. The last approved ridge line was +37.17 AOD and the house under this retrospective application has a ridge line of +38.1.AOD.

3.3 Development Plan

3.3.1 The Wirral Unitary Development Plan 2000

- HS4 Criteria for New Housing Development
- HS10 Backland Development
- GR5 Landscaping and New Development
- TR9 Requirements for Off Street Parking

3.4 Other Material Planning Considerations

3.4.1 The National Planning Policy Framework (2021)

- Achieving sustainable development

- Achieving well-designed places

3.4.2 Supplementary Planning Guidance Note 10: Backland Development – further detail in relation to backland development, road widths, policy advice on distances to neighbouring existing houses.

Supplementary Planning Document 2: Designing for self contained flat development and conversions – this document provides the most up to date interface distances accepted by the local planning authority

3.5 **Assessment**

3.5.1 The main issues pertinent in the assessment of the proposal are;

- Principle of development;
- Design;
- Highways and PROW;
- Ecology; and
- Amenity

3.6 Principle of Development:

3.6.1 The proposed development site is situated within a Primarily Residential Area under the current Development Plan and the application is therefore acceptable in principle subject to all other material planning considerations. The principle of a house on the site has also been accepted under application 20/01516

3.7 Design:

3.7.1 Policy HS4 of the Wirral UDP requires proposals for new residential development to relate well to surrounding property with regard to existing densities and form. Proposals should not result in detrimental change in the character of the area. Policy HS10 of the Wirral UDP requires proposals for the development of backland plots to not result in detrimental change to the character of the area.

3.7.2 Paragraph 130 of the revised National Planning Policy Framework states that planning decisions should ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development
- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping
- establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

3.7.3 The SPG on Backland Development states that in many circumstances a single storey dwelling will be more acceptable than a two storey.

3.7.4 As the proposed dwelling would be set back behind the primary frontage and would sit at a slightly lower gradient to Rectory Lane it would not be immediately obvious within the streetscape and is considered acceptable in this regard. The external finish and overall appearance of the dwelling are as previously approved.

3.8 Highways:

3.8.1 The National Planning Policy Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety

or the residual cumulative impacts on the road network would be severe. Development should give priority first to pedestrian and cycle movement, address the needs of people with disabilities and reduced mobility, create safe, secure and attractive places whilst minimising the scope for conflict between different users and allowing for the efficient delivery of goods and emergency access.

3.8.2 The Highways Engineer has raised no objection to the proposal. There are no changes proposed to the access following previous approved applications.

3.9 Ecology:

3.9.1 There are a number of mature trees within the proposed development site which have been cleared as a result of construction works and alterations to the rear boundary. These trees did not benefit from protection in the form of a Tree Protection Order and could therefore be removed at anytime. As part of this application, the applicant has agreed to a landscaping scheme for planting to the rear boundary, dense and mature boundaries are a character of the area. Planning consent APP/20/01516 requested a landscaping scheme to be submitted prior to first occupation, the house to date is not occupied and the Council will likely repeat the landscaping conditions for continuity and to address the changes to the rear boundary in particular.

3.10 Amenity:

3.10.1 Policy HS4 requires new residential developments to provide adequate access and servicing arrangements. Adequate private garden space should be provided for each dwelling. Policy HS10 requires backland developments to not result in undue noise, disturbance, loss of privacy or sense of enclosure to adjoining residents.

3.10.2 The National Planning Policy Framework states that planning decisions should create places that provide a high standard of amenity for existing and future users.

3.10.3 The Supplementary Guidance Note on Backland Development sets out standards for new residential development within backland plots. Development should not affect the amenity of existing dwellings through noise, general disturbance or loss of privacy. All development should abide by the minimum distances of 21 metres between overlooking windows and 14 metres between windows and 2 storey blank gables. Greater distances may be needed in low density areas.

3.10.4 The Supplementary Guidance Note provides guidelines for the access and parking arrangements for backland developments. Access must be a sufficient width to provide a private drive 3 metres wide together with an amenity strip on one or both sides and adequate passing places. The access corridor should be a minimum of 4 metres wide. There should be an additional 4 metres between the gable of a frontage dwelling and the access. Where there are habitable room windows on the side elevation of the frontage dwelling the interface should be increased to 6 metres. The noise associated with an access adjacent to garden boundaries should be taken into account. The access road as previously approved has a width of 4m and is set 5m from the side elevation of no3 Rectory Lane but does not meet the policy guidance of 4m (minimum) to the host dwelling. The access under this application is not to be amended and as such the access as previously approved is a material consideration in accepting the access as part of this planning application.

3.10.5 The proposed dwelling would provide an adequate garden area for prospective occupiers. It was noted that the existing dwelling (No. 5 Rectory Lane) benefited from a rear raised decking area. However, due to the orientation of the proposed dwelling it is unlikely that there would be any direct overlooking. The relationship between the application site and the host dwelling no 5 remains as per the previous approvals, the host dwelling is still set slightly higher than the application site and due to the location and orientation of the

dwelling the application site will not cause harm to amenity of no.5..

- 3.10.6 The proposed dwelling would be positioned approximately 9.6 metres from the rear boundary (measured from the terraced) and 45 metres from No. 8 Davenport Road. The accompanying drawing indicates that there is a difference in levels between the proposed dwelling and Nos. 8 & 10 Davenport Road. The siting and design of the dwelling are as per the last approval APP/20/01516, the differences to the site relate to the land levels and finished floor levels of the dwelling as constructed.
- 3.10.7 The principle of a dwelling in this location has been accepted, since the original approvals the built land levels for the dwelling have changed, the house is now on a higher land level, the terrace is approximately 39m from the rear elevation of 8 Davenport Road. The dwelling as built per these current plans has a ridge height similar to the host dwelling which is approximately +38.1 and a finished floor level (ground floor) of +30.55. The last approval 20/01516 had a ridge height of +37.17 and a ground floor finished floor level of +29.86. Therefore, the ridge height is approximately 1m higher than the last approval on the site and the ground floor level is approximately 0.7m higher.
- 3.10.8 In terms of the Councils interface distances, taking account of the different ridge heights, in particular those on Davenport Road as they are set lower down the separation distances according to Wirral's Supplementary Planning Document 2 should be 35m (based on ridge height differences), from the terrace to the rear of the houses on Davenport Road the proposal meets the policy in that there is approximately 39m distance. This therefore accords with the Councils interface distances set out in SPD2.
- 3.10.9 The main concern in terms of the built development is the impact of the raised terrace to the gardens of the properties on Davenport Road, the house is set at an angle so in terms of the closest point the terrace is roughly 9.6m from the rear boundary, this along with the levels creates what is considered a dominant rear amenity space, it is also noted that the tree/vegetation screen to the rear boundary has been removed which makes the impact of the building greater in terms of loss of privacy. This could be overcome by a landscaping condition and even screening to the terrace especially in terms of the rear elevation.
- 3.10.10 The general form and appearance of the dwelling has previously been accepted in this location following the most recent planning approval 20/01516, this application is to ascertain whether the changes to the levels result in unacceptable development.
- 3.10.11 Taking into account the position of the dwelling and the Councils interface distances, the scheme does meet current policy. The garden depth varies and in some places is less than 10m. Due to the changes to the land levels in comparison to the previous approvals, whilst the siting of the dwelling is the same as the previous approval, the impact may be mitigated by conditions relating to screening and landscaping.
- 3.11 Objections:
- 3.11.1 Objections have been raised with regards to the increased height and the impact that has on the neighbours of Davenport Road in particular, it is considered that due to the position and outlook the impact is not considered to be so much greater than the originally approved scheme and that interface distances are achieved. If replanting and privacy screens are approved to the terrace this would reduce the overall feeling of overlooking from an elevated position.
- 3.11.2 Additional concerns have been raised regarding the procedure and reasoning behind this planning application as well as the continuation of building works. The house as constructed was found to be built on a higher ground level and the applicant was invited to submit a retrospective application which would allow for interested parties to be informed of the works as undertaken and make comment, this is standard procedure for a planning application that may not have been built in accordance with the original plans.

Summary of Decision:

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

Taking into account the previously approved schemes on the site, the scale and appearance of the dwelling is considered acceptable, the land level changes could result in unacceptable harm however the Local Planning Authority considers that appropriate conditions to the terrace and rear boundary treatment will mitigate this impact, as such the proposal is, on balance considered acceptable in accordance with Wirral's UDP Policy HS4.

Recommended Decision: **Approve**

Recommended Conditions and Reasons:

1. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on September 30th 2021 and listed as follows: B101 Rev A and B104 Rev A and plans received by the local planning authority on 21 June 2021 and listed as follows: B102 Rev A and B103 Rev A.

Reason: For the avoidance of doubt and to define the permission.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008 (or any subsequent Order or statutory provision re-enacting or revoking the provisions of that Order), no window or dormer window shall be added to the property unless expressly authorised.

Reason; In order to protect the residential amenities of nearby occupants and to accord with Policy HS4 of the Wirral Unitary Development Plan

3. Prior to first occupation, details of privacy screens to the rear terrace shall be submitted to and approved in writing, the details shall include location, materials and height of the screens. The screens shall be installed as approved within an agreed time frame by the Local Planning Authority and maintained as such thereafter.

Reason; Having regard to neighbouring amenity

4. A scheme of planting to provide a screen along the south west rear boundary of the site consisting predominantly of evergreens or other suitable plants capable of growth to a height of 2 metres shall be carried out in accordance with details to be submitted to and approved by the Local Planning Authority before any work is commenced and the screen to be provided shall be subsequently maintained to the satisfaction of the Local Planning Authority. The approved scheme shall be fully implemented in the first planting season following commencement of any part of the approved development, and replacement planting shall be provided as necessary until the screen is fully established.

Reason: To ensure that proposed development/use does not prejudice the amenity of the locality and to ensure a proper standard of separation from neighbouring properties.

Further Notes for Committee:

1. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com.

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Last Comments By: 18/08/2021 10:07:37
Expiry Date: 09/08/2021