

Appeals Received and Decisions Made

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Appeals received and decisions made between 01 November 2021 and 25 November 2021

Appeal Decisions

Greenloons Farm Kirklake Road Formby Liverpool L37 2DD

Reference: DC/2019/01421 (APP/M4320/W/21/3271324)

Erection of dwellinghouse following demolition of existing dwelling

Procedure: Written Representations

Start Date: 20/07/2021

Decision: Dismissed

Decision Date: 08/11/2021

Park House Guest House Haigh Road Waterloo Liverpool L22 3XS

Reference: DC/2019/01043 (APP/M4320/W/21/3270408)

Outline planning application with all matters reserved except for access for extra care residential apartment building and independent living residential apartment building (C3) (up to 142 units), for occupants aged over 55 years and 100% affordable, including demolition of existing building.

Procedure: Written Representations

Start Date: 16/07/2021

Decision: Dismissed

Decision Date: 08/11/2021



Appeal Decision

Site visit made on 28 September 2021

by Beverley Wilders BA (Hons) PgDurt MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2021

Appeal Ref: APP/M4320/W/21/3271324

Greenloons Farm, Kirklake Road, Formby L37 2DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Noel Davis against Sefton Metropolitan Borough Council.
 - The application Ref DC/2019/01421, is dated 30 July 2019.
 - The development proposed is redevelopment of house and domestic/commercial outbuildings with detached house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The National Planning Policy Framework (the Framework) was revised in July 2021, after the appeal had been submitted. The parties have been given the opportunity to comment on the revised Framework and I have had regard to it in reaching my decision.

Background and Main Issues

3. The Council did not issue a decision within the prescribed period or within an agreed extension of time period. The appellant exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application.
4. A statement has been submitted by the Council in response to the appeal and this concludes that had the Council determined the application, it would have refused permission due to concerns relating to the impact of the proposal on the Green Belt.
5. Having regard to the evidence submitted by all parties, including local residents, I consider that the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt; and
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other

considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

6. The appeal site comprises a bungalow and a small outbuilding positioned centrally within the site. It appears from the evidence that the site previously contained more extensive outbuildings but at the time of my visit, these had been removed. Vehicular access to the site is via a track off Kirklake Road that runs adjacent to the rear garden boundaries of properties on Edenhurst Drive and Spruce Way to the east. Land to the north, south and west of the site is undeveloped with an access track positioned adjacent to the southern boundary and a public bridleway positioned close to the western and northern site boundaries. The appeal site boundaries are marked by a close boarded timber fence, with the boundary with residential properties to the east being marked by a laurel hedge.
7. The appeal site is in the Green Belt and it is also adjacent to land the subject of various environmental designations including European Sites at the Sefton Coast Special Area of Conservation (SAC) and the Ribble and Alt Estuaries Ramsar.

Whether the proposal is inappropriate development

8. Policy MN7 of the Sefton Local Plan (LP)¹ relates to the Green Belt with part 2 of the policy stating that the construction of new buildings is generally regarded as inappropriate development in the Green Belt, subject to the exceptions set out in national planning policy. Part 3b of the policy states that national Green Belt policy requirements relating to replacement buildings will be interpreted as replacement buildings that are more than 15% larger (by volume) of the existing building(s) being considered to be inappropriate.
9. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt should generally be regarded as inappropriate and sets out a number of exceptions to this that include the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces. The Framework does not define the term "materially larger" though as noted above, the LP defines this as being 15% larger in terms of volume. Paragraph 149 also permits the partial or complete re-development of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. I understand from the evidence that the Council has previously considered that the site is previously developed land.
10. Notwithstanding the Council's view as to the status of the appeal site, the site now appears to be in residential use with any previous non-residential buildings on the site having been removed. The proposal is for a replacement building and the proposed dwelling is clearly materially larger than the existing buildings on site. Even if I were to take the view that the proposal involves the re-development of previously developed land, the proposal would clearly have a greater impact on openness than the existing development. The proposal is therefore inappropriate development in the Green Belt and it is contrary to Policy MN7 of the LP and to relevant paragraphs of the Framework.

¹ A Local Plan for Sefton Adopted April 2017

The effect on openness

11. A fundamental aim of Green Belt policy, as set out in paragraph 137 of the Framework, is to keep land permanently open.
12. The appeal site comprises the existing bungalow and small outbuilding positioned centrally within the site. Although the existing buildings are located on a more elevated part of the site, their central position, modest scale and height together with existing boundary treatments means that they are not prominent when viewed from public vantage points around the site. However, the upper part of the roof of the bungalow is visible from some parts of the bridleway to the west of the site.
13. Notwithstanding that land levels would be reduced, the proposed dwelling is significantly larger in scale than the existing buildings. It has a larger footprint, floorspace, volume and height and in relative terms would be 1.5 metres higher than the ridge height of the bungalow. This increase in scale and height would make the proposed dwelling more prominent and visible than the existing buildings, particularly when viewed from the south and west. As a consequence, the proposal would have a moderate impact on the visual aspect on openness and would lead to a significant loss of openness having regard to its spatial dimension. I therefore conclude that the proposal would lead to significant harm to the openness of the Green Belt.

Other considerations

14. My attention has been drawn by the appellant to the existence of planning permission for a new dwelling on the site (Refs DC/2017/00543, later amended by DC/2017/01318) (extant permission) and to a certificate of lawfulness for the implementation of planning permission DC/2017/00543 by virtue of demolition (Ref DC/2019/02043). I have been provided with details of the approved dwelling and have had regard to these in reaching my decision.
15. The extant permission is for a dwelling that is much larger than the existing buildings on site. However, at the time of determining the previous permission (Ref DC/2017/00543), the Council considered that the harm to the Green Belt identified was clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal. These considerations included the cessation of industrial activities and the removal of decrepit buildings and associated anti-social behaviour, neither of which apply to the proposal given that any non-residential use of the site appears to have ceased and that the decrepit buildings have already been removed.
16. Other considerations in relation to the extant permission such as improvements to the structure of the buildings on site, the effect on the Coastal Change Management Area and the creation of a dune heathland are not dependent on the proposal as all are required as part of the previously approved scheme. I therefore attach limited weight to these considerations.
17. Moreover, the approved dwelling is a flat roofed, contemporary dwelling with what appears to be the same relative ridge height as the existing bungalow. By contrast, the relative ridge height of the proposed hipped roofed dwelling is higher than both the existing bungalow and the approved dwelling. This increase in ridge height means that it would be more prominent and visible, notwithstanding its more traditional design and it would consequently have a

greater impact on the visual aspect of openness than the approved dwelling. This is despite there being a modest reduction in both floorspace and volume when compared to the approved dwelling.

18. The lawfulness of the extant permission has been confirmed by the Council and although the appellant is seeking to vary the design and scale of the approved dwelling, I do not consider that this in itself means that there isn't a realistic prospect that the extant permission would be implemented. However, whilst I attach significant weight to the fallback position as a material consideration, for the reasons stated, it would be less harmful than the proposal.
19. The proposed dwelling is of a traditional design and would incorporate traditional building materials as opposed to the approved contemporary dwelling. However, having regard to the position of the site and proposed dwelling, on the edge of relatively modern residential development at Spruce Way, I do not consider that there is a requirement for development on the site to reflect any particular building style. I do not therefore consider that the construction of a more traditionally designed dwelling is a benefit of the proposal that should be afforded any weight in my decision.

Green Belt balance

20. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
21. The proposal is inappropriate development and it would lead to significant harm to the openness of the Green Belt.
22. I attach significant weight to the fallback position of the approved dwelling. However, I consider that it would be less harmful to the Green Belt than the proposal. I therefore find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, I do not consider that very special circumstances exist which justify the proposal.

Other Matters

23. The Council's putative reason for refusal refers to conflict with Policy GP1 of the Formby and Little Altcar Neighbourhood Plan (NP) as the proposal is stated to be outside of the Formby settlement boundary as defined in the NP. However, as the proposal is for a replacement dwelling rather than an additional dwelling, Policy GP1 of the NP does not appear to be directly relevant to the proposal.
24. As stated, the appeal site is adjacent to land the subject of various environmental designations including European Sites. However, as I am dismissing the appeal due to the effect of the proposal on the Green Belt, there is no need for me to consider its effect on these environmental designations or to consider any other matters raised by interested parties.

Conclusion

25. The proposal is contrary to the development plan when taken as a whole and there are no material considerations that justify a decision not in accordance with the development plan.
26. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed and planning permission refused.

Beverley Wilders

INSPECTOR



Appeal Decision

Site visit made on 20 September 2021

by Beverley Wilders BA (Hons) PgDurt MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2021

Appeal Ref: APP/M4320/W/21/3270408

Park House Guest House, Haigh Road, Waterloo L22 3XS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Anwyl Construction Company Ltd against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2019/01043, dated 28 May 2019, was refused by notice dated 7 September 2020.
 - The development proposed is outline planning application with all matters reserved except for access for extra care residential apartment building and independent living residential apartment building (C3) (up to 142 units), for occupants aged over 55 years and 100% affordable, including demolition of existing building.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is for outline planning permission with all matters reserved except for access. A Development Framework Plan, indicative layouts and artist's impressions have been submitted and I have had regard to these in reaching my decision.
3. The description of development used in the heading above differs from that on the planning application form as a revised description of development was agreed by the parties prior to the application being determined by the Council.
4. The National Planning Policy Framework (the Framework) was revised in July 2021, after the appeal had been submitted. The parties have been given the opportunity to comment on the revised Framework and I have had regard to it in reaching my decision.

Main Issues

5. The main issues are:
 - the effect of the proposal on the significance of the existing building;
 - the effect of the proposal on trees;
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would provide a suitable mix of development and its effect on the wider community.

Reasons

Effect on significance of existing building

6. Park House has been identified by the Council as a non-designated heritage asset. It is a substantial, two-storey villa, originally dating from the 19th Century, with later extensions including a 20th Century chapel. Park House was built as a private dwelling and was subsequently used as a school, a convalescent and rest home and latterly as a nursing home. It has been vacant since 2015.
7. The building has some interest as a former high status residential villa constructed in red brick in the Italianate style. It retains some features typical of the style including round headed windows and dentilled eaves, though these are limited to the west and small parts of the south elevation. The appearance and architectural quality of the building has been significantly harmed by later unsympathetic additions and alterations to the north and east elevations in particular which serve to largely conceal the original structure and have eroded appreciation of its plan form and the hierarchies of its elevations. In addition, windows have been replaced and chimneys removed.
8. The architectural significance of Park House primarily stems from the original 19th century villa set within extensive walled grounds. The building also has some historical significance resulting from its previous uses both as a private villa and in connection with its use by the Sisters of Notre Dame and the Augustinian Sisters. However, previous unsympathetic alterations and additions to the building means that its architectural significance has been reduced somewhat resulting in its overall significance being low to moderate.
9. The proposal includes the demolition of all existing buildings on site and would therefore result in the total loss of significance of the non-designated heritage asset. Policy NH15 of the Sefton Local Plan (SLP)¹ states that development affecting a non-designated heritage asset or its setting will be permitted where the aspects of the asset which contribute to its significance are conserved or enhanced. The proposal is therefore contrary to Policy NH15. Paragraph 203 of the Framework states that in weighing applications that affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
10. Taking the above matters into consideration, I conclude that the overall significance of the existing non-designated heritage asset is low to moderate and that the proposal would result in the total loss of this significance. The proposal is therefore contrary to SLP Policy NH15 which seeks, amongst other things, to conserve or enhance the significance of non-designated heritage assets.

Effect on trees

11. The site contains a large number of trees, the majority of which are located on the western, open part of the site and surrounding the existing pond. A large number of the trees are protected by a Tree Preservation Order (TPO). The number, size and position of the trees means that many are visible from

¹ A Local Plan for Sefton adopted April 2017

- beyond the site boundaries and they make a positive contribution to the character and appearance of the area.
12. The most recent arboricultural impact assessment dated April 2020 states that the proposal would result in the loss of approximately 58 trees, including 1 high value tree and 5 moderate value groups of trees. Some trees would be lost from the site boundaries with a large number of trees to be lost from the southern side of the existing pond. The Council is concerned about the number of trees that would be lost, notwithstanding that the appellant states that at least 25 mature trees would be planted in mitigation. Concerns have also been raised regarding the indicative layout and the impact that this would have on a number of trees shown as being retained.
 13. Policy EQ9 of the SLP states, amongst other things, that development proposals must not result in unacceptable loss of, or damage to, existing trees or woodlands. The explanation text at paragraph 10.81 notes that tree cover in Sefton is generally relatively sparse and that urban trees are therefore very important because of their green infrastructure benefits. With regard to TPO's, paragraph 10.82 states that development that results in a loss of trees which are subject to a TPO will be acceptable only if it is demonstrated that there are no practical alternative solutions and where the need for development outweighs the value of the trees that will be lost. Paragraph 131 of the revised Framework relates to trees and states that trees make an important contribution to the character and quality of urban environments and that decisions should, amongst other things, ensure that existing trees are retained wherever possible.
 14. Although the proposal is for outline planning permission, with layout being a reserved matter to be fully considered at a later stage, the indicative plans nevertheless need to demonstrate that it would be possible to accommodate development of the scale proposed without unduly affecting existing trees on site, some of which are protected by a TPO. I note that the appellant has sought to work with the Council's tree officer to retain as many trees as possible and that there have been a number of revisions to the proposal in respect of trees.
 15. The scale of the proposal is such that it will require a significant number of existing trees to be removed, a large number of which are of moderate value. Although a number of these are positioned within the site, to the south of the existing pond, and set away from the site boundaries, their presence is perceptible from wider public vantage points beyond the site. It is likely that the existence of the groups of trees to the south of the pond would be even more evident during winter months when boundary trees are not in leaf. Given that the existing trees positively contribute the character and appearance of the area and the largely built up, urban character of the immediate surroundings of the site, any significant loss of trees on the site would be detrimental to the area and would result in a reduction in green infrastructure benefits.
 16. Whilst I note that a number of mature trees are proposed to be planted in mitigation, based on the evidence before me, I do not consider that this would adequately compensate for the loss of trees proposed. Moreover, I note that the majority of mitigation planting would be positioned near to the site boundaries and that this would not directly compensate for the loss of trees

proposed within the site. Although I acknowledge that there have been a number of changes made to the layout in an attempt to retain as many trees as possible, it appears from the evidence that the appellant considers that the indicative layout before me is the optimal one for providing the quantum of development proposed with minimum tree loss.

17. With regard to layout and trees, reference is made by the appellant to scheme viability, though I am not aware that any specific viability evidence was submitted with the application or appeal which sets out the minimum number of units required to make the scheme viable. In the absence of this, I do not consider that the amount of tree loss proposed has been fully justified or that it has been demonstrated that there are no practical alternatives to the extent of tree loss proposed.
18. Taking the above matters into consideration, I conclude that that the proposal would result in a significant adverse effect on trees within the site and is contrary to Policy EQ9 of the SLP which seeks, amongst other things, to avoid the unacceptable loss, or damage to, existing trees or woodlands.

Effect on character and appearance - buildings

19. As stated above, the appeal site comprises a large, detached building comprising the original two-storey 19th century villa together with later extensions ranging in height up to four-storeys, many of which are unsympathetic to the original building. The existing building is positioned in the north east corner of the site, adjacent to Haigh Road and Park Road with the remainder of the site being largely undeveloped with the exception of a small, detached building to the south of the site and the large pond in the north west corner. As noted above, the site contains a large number of trees.
20. The site is bounded by the A565 (Crosby Road) to the west, Haigh Road to the north and Park Road to the east with the existing building being highly visible from the latter two roads and largely screened from Crosby Road by intervening landscaping. The boundary of the site is marked by a high red brick wall.
21. The surrounding area is mixed in character and appearance comprising commercial, community and residential uses in buildings of varying heights, designs and materials.
22. The proposal is for up to 142 units of extra care and residential development. Although the application is for outline planning permission, the indicative layouts and artist's impressions show a development comprising two buildings, a largely 4 storey building positioned in the north east corner of the site near to Haigh Road and Park Road and a largely five storey building in the south west corner adjacent to Crosby Road. Vehicular access is to be taken from Park Road with parking to be provided on site and requiring a reduction in the size of the existing pond. The north western part of the site adjacent to Crosby Road and Haigh Road would remain largely open and undeveloped, save for the provision of parking.
23. Whilst all matters except for access and including layout, scale and appearance are reserved, the indicative layouts and details demonstrate that it would be possible to accommodate a building/buildings for up to 142 units on the appeal site without detriment to the character and appearance of the area. Though

there are residential buildings near to the site, the immediate surrounding area is very mixed in character and appearance with Crosby Road having a busy, commercial character and Haigh Road and Park Road containing non-residential buildings. The scale of the proposed development and buildings would not be out of character with either the existing building or the surrounding area, noting the presence of a five storey office building at Burlington House to the south of the proposed five storey building.

24. Taking the above matters into consideration and notwithstanding my findings on the effect of the proposal on trees, I conclude that the appeal site could accommodate a building/buildings for the provision of up to 142 units without being out of keeping with the character and appearance of the area. Whilst the density, scale and massing of the proposal may be out of keeping with nearby existing residential development, the immediate surrounding area is mixed and is not dominated by residential development such that the proposal does not respect the local character and form of its surroundings. I therefore conclude that the proposal accords with Policy EQ2 of the SLP which seeks, amongst other things, to ensure that development responds positively to the character, local distinctiveness and form of its surroundings.

Mix of development

25. The proposal is for up to 142 residential units comprising a mixture of extra care (housing with care) and independent living (housing with support). It is stated that the site will be delivered in partnership with a registered social provider.
26. The Council is concerned that this mix of development does not provide for an inclusive or cohesive community citing paragraphs 8 and 127 of the Framework (now paragraphs 8 and 130 in the revised Framework). These paragraphs refer to the need to support communities with reference to a range of homes, to an appropriate mix of development and creating inclusive places. The Council's statement refers to the proposal representing a ghetto of elderly accommodation.
27. Although I have considered the Council's concerns, having regard to the nature and scale of the development proposed and to the requirements of the Framework, I do not consider the mix of development proposed to be unacceptable. Whilst all units would be for occupants aged over 55, two types of accommodation are proposed on site and the proposed residential accommodation would add to the overall mix and range of homes in the wider area which, as stated, comprises a mix of commercial and residential uses. Moreover, the Framework does not explicitly preclude developments comprising only one particular type of accommodation.
28. Consequently, I am satisfied that the proposed mix of development is acceptable and that the proposal accords with relevant paragraphs in the Framework, including those requiring an appropriate mix of development; supporting communities, including by providing a range of homes, and the creation of inclusive places.

Planning Balance

29. As stated, the proposal would provide up to 142 residential units for occupants over 55 years in age comprising a mixture of extra care (housing with care)

and independent living (housing with support). All of the units would be affordable and this is in excess of what is required by the development plan. Although it appears that the Council can currently demonstrate a five year housing land supply, the Council's Strategic Housing Market Needs Assessment has identified a need for 77 affordable units per year in the Crosby area, which includes Waterloo, and there is a projected increase in the population aged 65+ during the period 2017-2026. In this context, the provision of 142 units of affordable housing for the over 55s on a previously developed site in an accessible location is a significant benefit of the proposal to which I attach significant weight.

30. The proposal would also result in economic benefits both during the construction phase and once the units are occupied, through job creation and increased spend in the local economy. Given the scale of development proposed, I attach moderate weight to the economic benefits associated with the proposal.
31. Weighed against these benefits is the harm that would arise from the complete loss of a non-designated heritage asset of low to moderate significance and the loss of a large number of trees from the site, some of which are protected by a TPO.
32. As stated, although the proposal would result in the complete loss of significance of the non-designated heritage asset on site, its significance has been eroded over time by a number of unsympathetic additions and alterations to it. Consequently, the existing building has low to moderate significance. Whilst it would be preferable for the original villa to be retained as part of a re-development proposal, particularly having regard to the amount of local objection to its loss, given that it is not a designated heritage asset and its relatively low significance, I attach moderate weight to the loss of the non-designated heritage asset.
33. The proposal would result in the loss of a significant number of trees from the site, which is located in a largely built up, urban area. Although some of these trees would be replaced, this would not adequately compensate for the losses proposed and the proposal would have a significant adverse effect on trees on the site. I am not therefore satisfied, based on the evidence before me, that the site could accommodate the quantum of development proposed whilst minimising tree loss to an acceptable level and I attach significant weight to the harm to trees identified.
34. Section 38(6) of the Planning and Compulsory Purchase 2004 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, whilst the benefits associated with the provision of up to 142 affordable units for older people would be significant, they would not outweigh the significant harm to trees and the moderate harm resulting from the loss of the non-designated heritage asset that I have identified. The proposal is therefore contrary to the development plan taken as a whole and there are no material considerations that justify a decision not in accordance with the development plan.

Conclusion

35. I am satisfied that the site could accommodate a building/buildings for the provision of up to 142 units without being out of keeping with the character and appearance of the area and that an appropriate mix of development is proposed. However, the proposal would result in the complete loss of a non-designated heritage asset of low to moderate value and would result in a significant adverse effect on trees, some of which are protected by a TPO. The benefits of the proposal do not outweigh the harm that I have identified.
36. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR