



Appeal Decision

Site visit made on 13 July 2009

by Paul Griffiths BSc(Hons) BArch IHBC

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

**Decision date:
27 August 2009**

Appeal Ref: APP/R1845/A/09/2101634

Land to the rear of 1a/1b Gloucester Way, Bewdley

- 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 Simon Fletcher against the decision of Wyre Forest District Council.
- The application Ref.08/0953/FULL, dated 27 October 2008, was refused by notice dated 19 December 2008.
- The development proposed is an energy efficient, split-level bungalow.

Preliminary Matters

1. The drawings were amended in the course of the application and it seems that these revised drawings were consulted upon and formed the basis of the Council's decision. Further revised versions of the drawings were submitted with the appellant's statement as part of the appeal. However I am not satisfied that I can take into account these very latest revisions without prejudice to the interests of local residents. I have therefore dealt with the appeal on the basis of the drawings that the Council made its decision upon.

Decision

2. I dismiss the appeal.

Main Issues

3. These are (1) how the proposal sits in relation to national and local policies that govern housing development; (2) whether the proposal would preserve or enhance the character or appearance of the conservation area it would lie within; and (3) the effect of the proposal on the living conditions of the occupiers of No.1b Gloucester Way in terms of its visual impact.

Reasons

4. Policy H.2 of the Wyre Forest District Adopted Local Plan (LP) is permissive of residential development within areas primarily allocated for residential use, providing that the site constitutes previously-developed land. LP Policy NR.1 only allows built development on greenfield land where it can be demonstrated that there are no suitable previously-developed sites available. In very broad terms, this approach complies with general advice in Planning Policy Statement 3: *Housing* (PPS3).
5. Annex B to PPS3 defines previously-developed land as that which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure.

6. From the historic maps, the boundary treatments that I saw on in the vicinity of the original lodge to the Summer House, and the presence of a specimen tree (the Chilean Pine) on the appeal site, it seems to me that the appeal site, in the past, is very likely to have been part of the land associated with the Summer House. In that sense, it could be argued that the site was, at one stage, part of the curtilage of the Summer House. On that basis, it could be defined as previously-developed even though it is now separate from the Summer House.
7. However, the definition in Annex B to PPS3 excludes land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time (to the extent that it can reasonably be considered as part of the natural surroundings). On my inspection of the appeal site, I saw that the site is largely overgrown and in what I would describe as a natural state. Given that the appeal site has been separated from the curtilage it might once have formed part of, it could be argued that because of its natural state, the site cannot be defined as previously-developed.
8. On the basis of the evidence before me, it is very difficult to be definitive about whether the site is or is not previously-developed. While I accept the importance of LP Policies H.2 and NR.1, it seems to me that the status of the site in these terms is not decisive in any event. Even if the site is deemed 'greenfield', it is not an open space of any great importance in townscape terms and on top of that, lies within a settlement in relatively close proximity to public transport and other facilities. As such, the proposal would not necessarily lead to an unsustainable form of development. In support of that approach, LP Policy H.9 does say that outside the areas defined in Policy H.2, residential development will not *normally* be allowed (my emphasis).
9. Against this background, it seems to me that the impact of the proposal on the conservation area and the effect on the living conditions of adjoining occupiers are more telling considerations.
10. The dwelling proposed would be of quite striking design with a geometry and sectional arrangement that would respond well to the sloping nature of the site. However, the insertion of a new dwelling so close behind the established frontage would not follow the predominant pattern of development in the area, where houses have been arranged with a regular frontage to the highway.
11. Given the changes in level, and notwithstanding the proposed grass roof, the dwelling would be prominent in views from Gloucester Way between Nos.1a and 1b. In my view, its obvious presence behind the established frontage would render it incongruous. That incongruity would be heightened because it would sit very close to the eastern and western boundaries of the site and seem cramped in relation to the more spacious pattern of development that prevails. As a consequence, I consider that the proposal would harm both the character and the appearance of the conservation area.
12. On this basis, the proposal would be contrary to LP Policies D.1, D.3 and H.6 that, in essence, require development proposals to have respect for their context and LP Policy CA.1 that requires development in a conservation area to preserve or enhance the character or appearance of that area.

13. As set out, the proposed dwelling would sit relatively close to the rear boundary of No.1b Gloucester Way, in particular. I accept that it has been designed to minimise visual impact by, amongst other devices, following the slope of the site in its sectional form, and using a grass roof. I also accept that there would be little in the way of direct overlooking. However, I consider that the proposed dwelling would sit uncomfortably close to the boundary with No.1b and its visual impact would be magnified by the relative level and the sloping nature of the appeal site. If a boundary fence of up to 2 metres high was erected, or trees and/or shrubs planted to a similar height, on the boundary in an attempt to screen the proposed dwelling, the visual impact of the overall proposal, and the effect this would have on the living conditions of occupiers of No.1b, would be even more extreme.
14. In my view, with or without the boundary treatments suggested, the proposal would dominate the outlook from the rear garden and the rear facing windows of No.1b and have an oppressive impact on the occupiers thereof that would significantly undermine their living conditions. Consequently, the proposal would be contrary to LP Policies H.6 and D.1 that seek to protect the living conditions of residents from any significant harmful effects as a result of development.
15. It has been suggested that a fence up to 2 metres high could be erected on the boundary without the need for planning permission and that trees could be allowed to grow on the site unrestricted. However, I do not accept that a fence and unrestricted tree growth, without the proposed dwelling, would have as injurious an impact on the living conditions of the occupiers of No.1b as the overall proposal before me. On that basis, the fallback position does not serve to justify the scheme.
16. The appellant suggests that conditions could be imposed to relocate the proposed dwelling further from the boundary, lower it into the ground, and narrow the roof construction, thereby alleviating the visual impact on No.1b. These amendments might also serve to change the effect the proposal would have on the conservation area. However, it seems to me that siting and levels, in particular, are fundamental aspects of the design that cannot reasonably be amended through conditions. In my view, the effect of changes to the scheme of this magnitude can only be properly and fairly explored through a further planning application.
17. A range of other issues have been raised by interested persons. Of most relevance, I do not consider that the traffic from one new dwelling would have any significant impact in highway safety terms despite the nature of the access. Also, subject to suitably worded conditions, the Chilean Pine, which is covered by a Tree Preservation Order, could be protected, as could the biodiversity of the site. The stability of the site and foundation design is a matter for the Building Regulations. However, while the proposal may not cause any significant difficulty in these terms, my primary conclusions remain.
18. For the reasons given above I conclude that the appeal should be dismissed.

Paul Griffiths

INSPECTOR