
Appeal Decision

Site visit made on 7 June 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision Date: 15th July 2019

Appeal Ref: APP/P1615/W/19/3222981

Land to the back of 1 Methyr Terrace, Upper Lyndbrook, Lyndbrook GL12 9PT

- 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 Ms Julia Ridlington against the decision of the Forest of Dean District Council.
 - The application, ref. P1728/18/FUL, dated 31 October 2018, was refused by notice dated 21 December 2018
 - The proposal development is the erection of 2 storey, 2-bed detached eco house with off-street parking.
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Decision

1. The appeal is dismissed.

Application for costs

2. Two applications for costs have been made, one by the Appellant against the Forest of Dean District Council; and another by the Council against the appellant. These applications are the subject of separate decisions.

Procedural Matters

3. I note that there are discrepancies between the Application Form, the Appeal Form and the Council's Decision Notice regarding the correct address of the appeal site. For clarity I have taken the address noted on the appellant's Appeal Form which is also similar to that noted on the Council's Decision Notice.
4. During the course of the appeal, the appellant in the Statement of Case submitted three further options for the refused scheme and has sought that I consider these options as part of the appeal. It is unclear which option the appellant seeks that I am to make my decision upon, however the main differences from the refused application to the options are the change and treatment of roof form; changes to the overall design of the dwelling; changes to the treatment of the front façade; and changes to the garden layout. In general the appeal process is not the appropriate place to evolve the scheme; and the scheme that is considered at appeal ought to be the same one that was considered by the Council. There is no evidence that the amended plans of these further options formed part of the scheme that the Council made its decision on, or that these options have been subject to any form of consultation. In

accordance with the 'Wheatcroft Principles',¹ it would not be appropriate to consider these plans of additional options within my decision as the acceptance of such would deprive those who should have been consulted on the changed development or the opportunity of such consultation. As such, I will base my decision solely upon the plans that were assessed by the Council during the original planning determination.

5. I also note email correspondence from the Gloucestershire Highways Team² which was submitted by the Appellant alongside highways plans³ as part of this appeal which was after the determination of the planning application in order to resolve Reason for Refusal No.2. It is noted that the Council refute the suggestion that the email and plans overcome the second reason for refusal. Reason for refusal No.2 is related to the provision of car spaces, and the requirement for further evidence to support visibility splays and turning circles into the car space. This further information submitted by the appellant provides additional clarification to a main issue and which does not result in changes to the scheme. Whilst the Council have provided further comment on this new information in their statement, I find that the acceptance of this further information would be appropriate and not deprive those who should have been consulted or the opportunity of such consultation. As such, I will accept this further information and will base my decision upon it.

Main issues

6. The main issues are:

- The effect of the proposed development on the character and/or appearance of the locality, with particular regard to siting, design and levels;
- Whether the proposed development provides a suitable means of access for all users, and on-site parking provision;
- The usability of the private garden space for future occupiers, in relation to its siting, proximity and design.

Reasons

Character and/or appearance

7. The appeal site is within the Lyndbrook and Ruardean Woodside Character Area which according to the Forest of Dean Landscape Character Assessment *'occupies the steep valley of the Great Hough Brook and was at one time alive with various industries, but is now largely residential...beyond the core of the settlement the valley and hillsides are cloaked in a patchwork of small irregular hedged enclosures, isolated dwellings and 'squatter settlements.'*
8. The appeal site was formerly part of the rear garden of 1 Methyr Terrace, which is part of a group of terraced properties fronting New Road which has School Road running to the rear boundary of the gardens. Whilst the garden land to dwellings along Methyr Terrace are long at approximately 42-45 metres, the topography of the garden land to Methyr Terrace is very steep with

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

² Email correspondence between Julia Ridlington and Richard Jefferies, dated 17 and 18 January 2019

³ Plans Titled: 19.Visibility sightlines;18.Parking Details; and 20. Swept Path Analysis (SPA)

topographical plans submitted with the appeal showing the land falls from approximately 87 metres from the rear of 1 Methyr Terrace to approximately 72 metres at New Road where the appeal site is located.

9. Along School road, a small section of land has been excavated and is where a row of small single storey outbuildings are located. The rear gardens of the properties along Methyr Terrace that front School Road are undeveloped and largely overgrown with grassland and mature trees and shrubs; and due to the gradient, the appeal site has an open aspect with long distance views present across the valley towards Lyndbrook and the open countryside. Dwellings within the immediate vicinity are typically of local vernacular with small proportioned cottage-like dwellings with pitched and gabled roofs and the predominant use of stone for boundaries and dwelling walls and slate for roofs. Each of the aforementioned components highlights the character and appearance of this particular area.
10. The appeal proposal would involve a substantial amount of engineering works and excavation in order to construct a two storey dwelling fronting School Road, whilst to the rear of the site would appear as a single storey dwelling. An area to the front of the dwelling is to be utilised for one vehicle with the private amenity space located on a tiered platform to the rear. The dwelling would have a shallow half-hipped roof and have a two storey side wing with a shallower roof than the main dwelling. The windows are quite large with the residential access coming from the side wing where windows are placed more haphazardly.
11. The location of a two storey building in this location would be like nothing surrounding along this section of School Road, and would present a highly engineered and active frontage to School Road with the only form of development along this section being a small number of ancillary outbuildings. Whilst I appreciate that the site is within the settlement boundary and enables a visual gap between dwellings along New Road and School Road, the appeal scheme would urbanise this section of the road, which currently acts as a green area of land between the settlement of Lyndbrook and the open countryside beyond.
12. I acknowledge the design rationale as presented in the appellant's statement and Design and Access Statement, and whilst there have been attempts to integrate the development and take on architectural styles of the surrounding locality, this is largely unconvincing. Whilst there may be different styles and forms of buildings as the appellant states, buildings are typically of an appearance with traditional gable and pitched roof forms and windows and doorways are proportionate in size.
13. The proposed dwelling has a large fenestration size compared with historic buildings surrounding and the roof profile is shallow and hipped and has little relationship to the surrounding built form. The proposed private rear garden of the appeal site would be very small and unlike the larger gardens which are characteristic of this locality. The appeal scheme also causes the plot to be subdivided to the rear whereas the remaining dwellings all have larger gardens and access to the rear laneway which is part of this particular terrace's character and appearance.
14. As such the proposed scheme would have a poor relationship to the existing built form, and together with the poor design and layout and positioning on the plot, would appear as a discordant development. In this particular location,

there is an overall consistency of undeveloped form and ancillary function centred on School Road which this proposal does not adhere to. It follows that the material change in the nature of the land use, in addition to the visual changes, would be detrimental to the character and appearance of the locality.

15. Given my above reasoning, on this matter I conclude that the proposed scheme would detrimentally harm the character and appearance of the area in terms of its siting, design and levels. The scheme would therefore be contrary to Policy CSP.1 of the Forest of Dean Core Strategy (CS) (which amongst a number of design principles, seeks that new development takes into account the important characteristics of the environment); Policy AP.1 of the Forest of Dean Allocations Plan 2018 (AP) (where integration and appearance is a key aspect of sustainable development); and Policy AP.4 of the AP (which amongst a number of design principles, seeks the propagation of local distinctiveness by ensuring the style and nature of materials demonstrates an appreciation of traditional characteristics, styles and materials. These policies are supported by the Forest of Dean Residential Design Guide (RDG) (which provides guidance with regards to the appropriate design and placement of buildings so that they can be appropriate within the character of the area. The scheme would also be contrary to Paragraph 127 of the National Planning Policy Framework (the Framework) (which amongst a number of principles seeks development that is sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

Access and on-site parking provision.

16. At the point of the appeal site, School Road is a very narrow carriageway that is demarcated by double yellow lines on either side and between the double yellow line and the front boundary of the appeal site is a red painted pedestrian zone which whilst at the same level as the road, is utilised as a footpath for access and for pedestrians walking to the primary school located further along School Road. The road width of School Road at the point of the appeal site impedes simultaneous two-way flow of vehicles, the result being that vehicles may often have to stop momentarily to give way to traffic coming in the opposite direction or veer onto the pedestrian zone momentarily. I have not been made aware of a poor accident record for this road and therefore I deduce that despite its deficiencies, School Road currently operates satisfactorily without any significant safety issues.
17. I appreciate that the highway conditions I experienced on my site visit was only a snapshot of the road conditions at this particular time, however I have also considered the evidence submitted by both main parties and surrounding residents and, in light of this, I am satisfied that what I saw represents typical conditions, which includes considerations regarding the increased flow of pedestrians and traffic at school drop-off and pick-up times.
18. As the original application did not have a speed survey attached, the Council have applied guidance presented in the *Gloucestershire County Council Standing Advice – Technical Note for residential development of 5 dwellings or less* (Standing Advice) which suggests that for a 30mph road the 85th percentile speed would be 34mph, which would generate a need for visibility splays of 2.4 metres x 54 metres in either direction. This standard is derived from annual speed monitoring throughout the council area and is a suitable standard to apply

to this particular appeal site. It is noted that the desired visibility splay to the right (south) could be achieved, however that to the left (north) would not be able to be achieved due to the lack of footways and neighbouring garages and visibility required over land not within the ownership of the appellant. In order to obtain the required visibility, a vehicle would need to encroach upon the pedestrian zone which would be particularly problematic at school drop-off and pick-up times.

19. It is also noted by interested party respondents that the vehicular parking provided does not enable a vehicle to enter and exit in a forward gear. I also have these concerns which would mean that visibility is further reduced given that the proposed parking arrangement would have a high probability that vehicles may reverse onto the carriageway which is very problematic for visibility to pedestrians, cyclists and vehicles on this quite narrow carriageway. To me the proposed access would cause a conflict between vehicles, pedestrians and cyclists and would not be deemed a safe or suitable access for all uses of the carriageway which would give rise to unacceptable impacts towards highway safety.
20. Turning to the provision of car spaces, it is noted in the Officer's Report that there is a requirement for 2 car parking spaces, which stems from the RDG which specifies infill plots should have a maximum of 2 car spaces provided. I note that the Standing Advice at paragraph 3.10.1 applies a more liberal approach that the amount of spaces should be sufficient to accommodate likely demand, taking account of the type of dwelling, public transport, car ownership, amongst others. There is no explanation presented in the Council's case as to why the maximum of 2 spaces are required, with the appellant submitting details of parking standards from the nearby South Gloucestershire Local Authority which has a draft SPD that specifies a requirement of 1 space for a two bed dwelling and seeks that I apply the same standard to the Forest of Dean. It would not be appropriate to apply another Council's standard to the Forest of Dean which seeks a more liberal approach is given dependent upon specific criteria as detailed above.
21. The appellant notes that the site is reasonably accessible with hourly bus services to Gloucester and Coleford, with more infrequent services to Monmouth, Ross-on-Wye and Cinderford. The site is also accessible via bicycle, and given surrounding car ownership, in my opinion, the provision of one vehicle for a two bedroom dwelling for this particular site would be adequate.
22. Given my reasoning above, whilst I do not agree with the Council that the provision of 2 on-site parking spaces is required, based on the evidence before me, a suitable means of access for all users in this particular circumstance is unable to be achieved. It follows that the scheme would be contrary to Policy CSP.1 of the CS (which amongst a number of criterion seeks that design and construction of new development takes into account important characteristics of the surrounding environment, including the adequateness of infrastructure); and Policy AP.1 of the Forest of Dean Allocations Plan 2018 (AP) (where integration and appearance is a key aspect of sustainable development); and paragraphs 108 and 110 of the framework, which amongst a number of principles, seeks that development has safe and suitable access achieved for all users, and places are safe, secure and attractive and which minimise conflicts between pedestrians, cyclists and vehicles.

Usability of garden space for future occupiers

23. Given the levels of the ground to the rear of the dwelling, the garden would be terraced and provide approximately 53.5Sqm of garden space, with 42 Sqm provided on a level area which would be facilitated by a retaining wall. The RDG specifies on Page 35 that *'to place the house normally within 2-3 metres of the street boundary should result in gardens averaging 100Sqm per family dwelling on the private side of the house to the rear of the plot.'* I also note that the RDG also seeks that the setting of the development and the site characteristics should also be used to determine the appropriate size of garden space. The Council do not define what a 'family house' is, however in my view the two bedroomed dwelling proposed is capable of supporting a small family.
24. The appellant presents draft Policy PSP43 of the South Gloucestershire Local Plan which specifies minimum garden space requirements for a 2 bed dwelling would be 40Sqm and seeks that I apply this standard to the appeal site. As stated previously, the application of another council's policies to the Forest of Dean District would be inappropriate. I also notice reference to a document that prescribes national standards for private garden space provision, however I have not been presented with such a document as part of the appeal.
25. Whilst the garden space would not meet the specified average of 100Sqm as per the RDG, the guidance suggests that this could be lower or higher depending upon the site characteristics which determine appropriate size. As previously detailed, the site is experienced as part of the long rear gardens to the rear of Merthyr Terrace and to me the adjoining gardens of Merthyr Terrace set the context and character for appropriate sized garden areas. In this context, the garden spaces are much larger than the average 100Sqm and the proposed garden of the appeal site would not comply with the design, siting and general character of garden spaces which are inherent to the character of this particular location.
26. The Council also raise the issue of proximity of the garden space to neighbouring residents which as a result of the levels present would accentuate the ability for overlooking. I note the RDG specifies minimum distances of 21 metres between first floor windows which would be applicable in more 'typical' situations where both dwellings were on level ground. However, the Council's concern relates to the ability to directly overlook the proposed private garden space as a result of the levels in topography involved in this particular context. Whilst a boundary fence may assist in screening the rear garden, I do not feel that this would satisfactorily mitigate the level of overlooking towards the proposed dwelling's private garden as a result of the topography of the local area.
27. I note comments from the Council with regards to the design of the proposed garden space. Whilst the space would be small, the tiered layout means that after an amount of excavation and infilling the space would be relatively level and of a rectangular shape which would be sufficiently useable as a private garden space.
28. In conclusion of this matter, whilst the amenity space provided would be sufficiently useable in relation to its particular design, the amenity space would not be of a sufficient size to successfully integrate into the area, and would

result in detrimental impacts from overlooking which would likely harm the usability of the garden space and the living condition for future occupiers. Consequently, the proposed scheme would be contrary to CSP.1 of the CS (which amongst a number of criterion seeks that design and construction of new development takes into account important characteristics of the surrounding environment, including the adequateness of infrastructure); and Policy AP.1 of the AP (where integration and appearance is a key aspect of sustainable development); and Policy AP.4 of the AP (which amongst a number of design principles, seeks that developments are visually attractive, employing good architecture and landscaping which respects the amenity of residents and others) and the relevant paragraphs of the Framework (which seeks amongst a number of principles that development is sympathetic to the local character, layout and has effective landscaping).

Other Matters

29. I note discussion in the appeal documents with regards to impacts towards overlooking to a neighbouring garden from the appeal site as a result of a proposed side facing window. This issue was not a reason for refusal, and given the other impacts caused by the development as detailed in my reasoning, I have therefore chosen not to delve into this issue.
30. I note that the site is covered by a large amount of vegetation and that there is ongoing discussion on the ecological impacts and enhancements required. The scheme was not refused on the basis of its ecological impacts and I have therefore not delved into whether the scheme would be appropriate from an ecological perspective.
31. I note that the Framework encourages the development of small sites and making effective use of urban land. Whilst this favours the scheme it does not outweigh the harm I have identified it would cause.
32. I note dissatisfaction from the appellant with regards to how the Council handled the application and that in the opinion of the appellant the Council did not follow the professional opinions of statutory consultees. The Council is not obliged to accept the opinion of consultees, and the officer report gives sufficient reasoning which justified its decision. I have seen no evidence to indicate that the Council has not failed to properly evaluate the application or consider the merits of the scheme, in which the Council had reasonable concerns about the impact of the proposed development which justified its decision.

Conclusion

33. For the reasons given above, the appeal is dismissed.

J Somers

INSPECTOR