



Appeal Decision

Site visit made on 23 December 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2020

Appeal Ref: APP/P1615/W/19/3238428

Devon House, Batts Lane, Ruardean Hill GL17 9AH

- 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 Mrs Linda Smith against the decision of Forest of Dean District Council.
 - The application Ref P0437/19/FUL, dated 19 March 2019, was refused by notice dated 13 August 2019.
 - The development proposed is erection of a single dwelling, together with associated access and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on i) the character and appearance of the area; ii) living conditions of occupiers of Devon House and Valley View and of future occupiers of the appeal development with regard to privacy and provision of private amenity space; and iii) highway safety.

Reasons

Character and appearance

3. The appeal site forms part of the garden area of the dwelling of Devon House, which has a traditional design finished in a mix of stone and render. The levels of the site rise markedly upwards from Batts Lane to the north of the site to the open land to the south, with a public footpath running along the eastern boundary. At the time of my site visit, the land was not enclosed and largely devoid of vegetation providing unobstructed views through the site. The open land to the south and the appeal site are identified as forming part of an important open area as identified within the adopted Forest of Dean Allocations Plan 2018 (AP). Whilst the site falls outside of the Locally Distinctive Area (LDA) for Ruardean Hill, the low density and irregular pattern of dwellings and open space, gives the area a pleasant and spacious character.
4. The appeal proposal seeks the erection of a three-bedroom dwelling. From the front elevation, the dwelling would have a generally traditional design although owing to the levels of the site it would be split level with much of the accommodation being at first floor within a flat roof projection. The site would

benefit from parking and vehicular access from Batts Lane and a split-level garden to the rear including the provision of a green roof.

5. I acknowledge that owing to the sites current condition that its visual contribution to the important open area is somewhat reduced. However, I consider that areas including the appeal site are important characteristics of the historic settlement pattern. I acknowledge the position of the site within the settlement boundary and that Policy CSP9 of the adopted Forest of Dean District Core Strategy 2012 (CS), allows in exceptional circumstances for the change of use or development of such land. However, in my mind, the appeal site as part of a wider important open area, with open character and public access (owing to the footpath) contributes positively to the spacious and irregular pattern of development.
6. Elements of the design, including the treatment of the front elevation and materials, have taken cues from traditional elements that are prevalent within the area and the position of the dwelling would generally be consistent with the building line of neighbouring properties. However, noting the levels and location of the appeal site, visibility of the proposal from the public domain would not be limited to the front elevation, with the proposal being readily visible owing to the position of the public footpath to the eastern boundary and the gap between the appeal proposal at Batts Lane Cottage.
7. The proposal is less traditional to the rear with a significant flat roof projection extending from eaves height of the asymmetric roof owing to the levels difference across the site. In my mind this would not be subtle and would, owing to the levels and siting of development, be open to view from the public domain and conspicuous in its context. Given this, I am not persuaded that the addition of built form as proposed would complement the local character or reinforce the overall designation as suggested, appearing somewhat contrived. I consider on balance that the proposal would owing to its siting, levels and design, cause significant harm to an identified open area that contributes to the established pattern and character of development.
8. The reason for refusal includes reference to Policy AP6 of the AP. However, although I consider that the site shares many of the identified characteristics of the nearby LDA, the policy is only of relevance to development within such an area. As such I attribute this little weight in determination of the appeal.
9. For the above reasons, I conclude that the proposed development would harm the character and appearance of the area. As such it would be contrary to Policy CSP1 of the CS that seeks amongst other things that development must take into account important characteristics of the environment; CSP9 of the CS that seeks amongst other things to protect land identified as being of amenity value from development. It would also be contrary to Policy AP1 of the AP that seeks amongst other things development that improves the environmental conditions of the area; Policies AP4, AP5 and Chapter 38 of the AP, that seek amongst other things to ensure high quality design and protect local distinctiveness and character. The proposal would also fail to accord with the design requirements of Chapter 12 of the National Planning Policy Framework (the Framework) and advice contained within National Planning Practice Guidance (PPG) and the Council's Residential Design Guide Supplementary Planning Guidance 1998 (SPG).

Living conditions

10. The submitted plans indicate the provision of outdoor amenity space to the south of the proposed dwelling, that owing to the site levels is indicated as being split into a number of tiered elements including a terrace adjacent to the boundary with Devon House; 2 terraced garden areas and the provision of further space on a green roof.
11. From the details before me much of the amenity space to serve future occupiers of the dwelling would be provided on the green roof area that would be significantly elevated above existing ground levels. Although I acknowledge in residential settings that a degree of visibility from neighbouring properties may be expected, owing to the height of this area above existing ground levels it would likely be readily open from wider view. As such I am not persuaded that this would provide private or attractive outside garden space for future occupiers to utilise, owing to potential lack of privacy for future occupiers from users of the footpath and from neighbouring dwellings, including Valley View. Furthermore, I am not persuaded on the evidence before me that the use of the green roof area as garden would not result in a loss of privacy for occupiers of neighbouring properties, including Devon House and Valley View, particularly in the absence of any form of enclosure to this area and height.
12. I acknowledge that a safety barrier is not proposed and that the Council have included a reason for refusal with regard to associated safety issues. Whilst such details are not before me, any measures to enclose the green roof area may also have implications in terms of character and appearance.
13. In the absence of evidence to demonstrate that the use of the green roof could be adequately mitigated, I find that the remaining proposed usable outside amenity space would be of diminished size and practical use for occupiers of the dwelling despite a degree of private space being provided. From the details before me, exclusion of the green roof as useable garden space, would result in provision below the recommended 100 square metres identified within the Design Guide SPG. As such I am not persuaded that the proposal would provide future occupiers of the dwelling with an adequate or satisfactory form of outdoor amenity space.
14. The appellant contends that the requirements of the Design Guide SPG should be afforded less weight as it does not form part of the development plan and that the Council have imposed an additional standard in consideration of the usability of the garden space. Although I acknowledge the SPG is not policy, I consider it supplements the content of the development plan and forms a material consideration in determination of this appeal. Furthermore, although usability of garden space is not an explicit requirement of policy or the Design Guide SPG, I consider the practical usability of any such space to be material in considering the quality and value of garden space for future occupiers.
15. I acknowledge that a number of gardens within the area are modest in size and already experience a reduced degree of privacy owing to the levels and pattern of development as detailed by the appellant. Furthermore, whilst the site may currently be open from view, as part of the garden serving Devon House, the property also benefits from a more private area to the rear of the dwelling. However, neither of these points justify allowing a proposal that would not adequately safeguard living conditions of existing and future occupiers.

16. The appellant contends that overlooking of neighbouring properties was not raised as a reason for refusal for a previous proposal at the site. Whilst some detail has been provided, I am not familiar with the full details of the previous proposal including matters such as levels. In any event, I have determined the appeal on its individual planning merits.
17. The proposed sub-division of the plot would result in a reduced level of garden space for occupiers of the existing property of Devon House. The submitted details indicate that this area would be in excess of 100 square metres although the Council contend that this would offer a low standard of accommodation in conflict with the guidance contained within the SPG. However, from the details before me and from my site observations the space to the rear of Devon House, is situated to the more private rear aspect of the property and terraced to provide useable space. In this regard, I am not therefore persuaded that the proposal would result in an unacceptable reduction in the amount or quality of garden space available to occupiers of Devon House.
18. For the above reasons, I conclude that the proposal would harm the living conditions of existing and future occupiers with reference to privacy and provision of private amenity space. As such the proposal would not accord with Policy AP4 of the AP which seeks, amongst other things, development which respects the amenity of residents and others; Chapter 12 of the Framework, including paragraph 127 (f) that seeks a high standard of amenity for existing and future users and the guidance contained within PPG and the Residential Design Guide SPG.
19. I note that reference is made to CS Policies CSP1 and CSP4 and AP1 of the AP within the reasons for refusal relating to living conditions. However, having assessed the content of these policies I am not convinced that they are directly relevant to the related reasons for refusal and as such attribute these little weight in determination of this issue.

Highways

20. The appeal proposal would benefit from vehicular parking accessed from Batts Lane adjacent to the existing parking area serving Devon House. Batts Lane is narrow and from my observations lightly trafficked. There is debate between the parties with regard to the usability of one of the parking spaces shown on the plans owing in part to a suggested discrepancy on the submitted plans. The reason for refusal also contends that it has not been adequately demonstrated that the access would provide adequate visibility for future occupiers of the development.
21. I acknowledge the character of the highway including varying widths and consider that traffic speeds are likely to be relatively low. However, I haven't been provided with details of the visibility including any suggested improvement for occupiers of Devon House. The parking area narrows towards its southern end with a two-storey flank wall to the side, although this varies in extent between different drawings. Although this level of constraint may be rather limited it would, in my mind, likely effect the usability of the southernmost space as indicated on the submitted drawings. Given this, I am not persuaded that this arrangement would provide adequate on-site parking that would allow vehicles to safely manoeuvre out of the site or that it would not result in parking on the adopted highway which is confined in width in

places. On balance, having considered the above I don't have sufficient evidence before me to conclude that the proposal would not result in an unacceptable safety risk.

22. The appellant contends that the existing access serving Devon House could currently be widened under permitted development rights. Although I acknowledge that this may be the case, the appeal proposal would introduce an additional dwelling on the site and its use would therefore be materially different. As such this does not alter my view above.
23. On the evidence before me, I am unable to conclude that the proposal would not have a harmful effect on highway safety. I therefore find conflict with the guidance contained within Chapter 9 of the Framework including paragraph 109.

Other matters

24. I acknowledge that the provision of an additional dwelling would be a benefit of the scheme. However, the harm I have identified above with regard to the main issues, outweighs any such benefit.
25. I acknowledge that a letter of support was received with the appealed application; the contention that drainage matters could be dealt with by way of condition; the lack of objection from the Rights of Way Officer and Ramblers Association and that the appellant would be willing to provide a renewed hand rail to the adjacent footpath. However, whilst these matters are acknowledged none of them outweigh or alter my conclusion on the main issues.

Conclusion

26. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR