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## Appeal Decision

Site visit made on 18 February 2020

**by Bhupinder Thandi BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 April 2020**

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**Appeal Ref: APP/R1845/W/19/3240865**

**Land adjoining 55 Highclere, Bewdley (fronting Highclere) DY12 2EX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by L Bridges against the decision of Wyre Forest District Council.
  - The application Ref 19/0268/FULL, dated 30 April 2019, was approved on 24 September 2019 and planning permission was granted subject to conditions.
  - The development permitted is erection of one detached split level house with integral garage.
  - The condition in dispute is No 10 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development as specified in Part 1 Classes A, B and C, shall be carried out without express planning permission first being obtained from the Local Planning Authority.*
  - The reason given for the condition is: *To enable the Local Planning Authority to control the development and to safeguard the character and visual amenities of the area, and to ensure that adequate private open space is retained within the curtilage of the building. To ensure that the development accords with Policies to comply with the Council's parking standards and be in accordance with Policy CP11 of the Adopted Wyre Forest District Core Strategy and Policies SAL.UP7 and SAL.UP8 of the Adopted Wyre Forest District Site Allocations and Policies Local Plan.*
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### Decision

1. The appeal is allowed and planning permission, Ref 19/0268/FULL for the erection of one detached split level house with integral garage at land adjoining 55 Highclere, Bewdley (fronting Highclere) DY12 2EX is varied by deleting Condition 10.

### Background

2. In September 2019 planning permission was granted for a new dwelling, subject to a series of conditions. In doing so the Council imposed a condition removing permitted development rights for the enlargement, improvement or other alteration of a dwelling, additions to the roof and other alterations to the roof falling within Classes A, B and C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPD0). The application sought to remove these restrictions.

## **Main Issue**

3. The main issue is whether Condition 10 is necessary and reasonable having regard to:
  - The character and appearance of the area; and
  - The living conditions of future occupants with regard to private amenity space.

## **Reasons**

### *Character and appearance*

4. The appeal site comprises a vacant L shaped parcel of land located between 55 Highclere and 14 Herne's Nest. Properties along both roads comprise detached properties in large plots that are generally individual in design and extend across almost the entire width of their plots. Nevertheless, gable roofs and two storey forward projections are a common feature of the properties along the street. Several of the houses on the eastern side of Herne's Nest are either split level or raised from street level to accommodate the change in levels.
5. The extensions that could be undertaken as permitted development under the provision of the GPDO would be small scale. A rear extension under Class A of the GPDO would be single storey and would not be visible from the street.
6. The proposed dwelling will sit in close proximity to both neighbouring properties and there will be limited space on either side to accommodate a meaningful side extension. A side extension next to No 14 would be small scale and single storey, and largely obscured by No 14 being sited further forward on its plot. As such a side extension would not be highly visible from the street due to the relationship with neighbouring properties.
7. Alterations to the roof under Classes B and C of the GPDO would be limited in scale and any to the rear would not be visible from the street, as the new dwelling will be set further back in its plot than those either side. Such small scale alterations would not disrupt the prevailing roofscape along the street.
8. Consequently, the extensions and alterations that could be undertaken as permitted development under the provisions of Classes A, B and C of the GPDO would not be highly visible and would not disrupt any distinctive or common features within the street. In these circumstances removing permitted development rights would not be justified in order to protect the character and appearance of the area.

### *Living conditions*

9. The new dwelling will benefit from a large garden extending to approximately 257m<sup>2</sup>. The scale of any ground floor extension permitted under Class A of Schedule 2 of the GPDO would not result in a significant reduction in the size of the garden. By definition, roof alterations would have no effect on the availability of private amenity space.
10. There is therefore no justification for removing permitted development rights in order to protect the living conditions of future occupants.

## **Conclusion**

11. Paragraph 53 of the National Planning Policy Framework (the Framework) advises planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance (PPG) sets out that the removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application are unlikely to meet the tests of reasonableness and necessity.
12. Furthermore, there is no evidence before me to indicate that permitted development rights have been removed for extensions and alterations at other properties in the street.
13. I therefore conclude that the Condition is not necessary or reasonable and clear justification for its imposition has not been provided.
14. For this reason, the appeal is allowed and the planning permission varied by deleting Condition 10.

*B Thandi*

INSPECTOR