

Open

Planning Committee

Additional Information

June 2020



Wyre Forest District Council



Planning Committee Additional Information

Paper Number	Subject	Page Number
1.	Planning and Related Appeals	3
	Appendix 1 - Appeal Decision	11
	Appendix 2 - Appeal Decision	14
	Appendix 2b - Costs Decision	19

WYRE FOREST DISTRICT COUNCIL

Planning Committee

16 June 2020

PLANNING AND ENFORCEMENT APPEALS

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1520 19/0218/ENF	APP/R1845/C/18 /3216916	Mr Robert Dyke	EASTER COTTAGE NORTHWOOD LANE HILL FARM BEWDLEY DY121AS Unauthorised two storey extension to a bungalow (Enforcement case 16/0049/ENF)	LI 12/04/2019	17/05/2019	07/06/2019	07/01/2020	

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1527 19/0207/CERT/3230693	APP/R1845/X/19	MR FINNEGAN	HARBOROUGH FARM BARN BIRMINGHAM ROAD BLAKEDOWN KIDDERMINSTER Proposed side extension, porch, detached garage and changes to external fenestrations	WR 24/07/2019	28/08/2019			

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1538 19/0268/FULL	APP/R1845/W/1 9/3240865	L Bridges	55 HIGH CLERE BEWDLEY DY122EX	WR 12/12/2019	16/01/2020			Allowed 09/04/2020
			Erection of one detached split level house with integral garage					
WFA1539 19/0291/PIP & 19/0621/PIP	APP/R1845/W/1 9/3241012	Mr J McConnell	LAND AT CHURCH VIEW BEWDLEY DY122BZ	WR 12/12/2019	16/01/2020			Dismissed 19/05/2020
			Erection of 4no. Bungalows & Erection of 2no. Bungalows					

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1540 19/0409/FULL	APP/R1845/D/19 /3242397	Mrs B Nichol	7 TEAL CRESCENT KIDDERMINSTER DY104ET Erection of single storey front extension including porch and extensions to existing side garage	WR 17/12/2019	21/01/2020			

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1543 20/0030/ENF	APP/R1845/C/19 /3221145	Mr Carpenter	BLACKSTONE MEADOWS STOURPORT ROAD BEWDLEY DY121PU Unauthorised Use of Land	HE 29/01/2020	04/03/2020		27/05/2020	

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1544 19/3053/PNRE	APP/R1845/W/1 9/3243004	MRS J ROSE	OAK TREE FARM POUND GREEN ARLEY BEWDLEY DY123LG Change of use of Agricultural Building to a Dwellinghouse (C3) (Resubmission of 19/3011/PNRES)	WR 29/01/2020	04/03/2020			
WFA1545 19/0452/FULL	APP/R1845/W/1 9/32422675	MR BRYAN TALBOT	CHAPEL PADDOCK CHAPEL LANE CALLOW HILL KIDDERMINSTER Erection of two detached dwelling houses, with new vehicular access and associated works	WR 29/01/2020	04/03/2020			

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1547 18/0331/FULL	APP/R1845/W/1 9/3219966	MR & MRS CARPENTER	LAND AT BLACKSTONE MEADOW STOURPORT ROAD Erection of a temporary rural workers dwelling and agricultural buildings, with associated works	HE 29/01/2020	04/03/2020		27/05/2020	
WFA1548 19/0728/FULL	APP/R1845/W/2 0/3246529	MR JAMES HEMMINGS	4 BELBROUGHTON ROAD BLAKEDOWN KIDDERMINSTER DY103JG Proposed conversion of garage to dwelling (C3), including rear extension and parking	WR 02/03/2020	06/04/2020			
WFA1546 20/0031/ENF	APP/R1845/C/19 /3224904	Mrs Carpenter	BLACKSTONE MEADOWS STOURPORT ROAD BEWDLEY DY121PU Unauthorised Use of Land	HE 29/01/2020	04/03/2020		27/05/2020	

Appeal and Application Number	Planning Inspectorate Reference	Appellant	Site (Proposal)	Form of Appeal and Start Date	Written Reps. or Statement Required By	Proof of Evidence Required By	Public Inquiry, Hearing or Site Visit Date	Decision
WFA1549 19/0242/FULL	APP/R1845/W/1 9/3243291	LONDON CITY BOND LTD	DRAKELOW TUNNELS KINGSFORD LANE KIDDERMINSTER Change of use of approximately 285,000 sq feet of floorspace within the Drakelow Tunnels for the storage of wine and other alcoholic drinks (Class Use B8), erection of 2 portacabins and new boundary treatment, refurbishment of metal structure to form reception canopy, alterations to disused sub-station to provide alternative bat habitat and the change of use of part of the Tunnel space to provide a Museum (amended description).	HE 12/05/2020	16/06/2020			

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

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.*

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 257m². 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



Appeal Decisions

Site visit made on 18 February 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th May 2020.

Appeal A Ref: APP/R1845/W/19/3241012

Land off Church Road, Bewdley DY12 2BZ

- 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 J McConnell against the decision of Wyre Forest District Council.
 - The application Ref 19/0291/PIP, dated 9 May 2019, was refused by notice dated 9 July 2019.
 - The development proposed is permission in principle for the erection of 4no. bungalows.
-

Appeal B Ref: APP/R1845/W/19/3241014

Land off Church Road, Bewdley DY12 2BZ

- 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 J McConnell against the decision of Wyre Forest District Council.
 - The application Ref 19/0621/PIP, dated 20 September 2019, was refused by notice dated 8 November 2019.
 - The development proposed is permission in principle for the erection of 2no. bungalows (re-submission).
-

Decisions

1. Appeal A is dismissed, and Appeal B is dismissed.

Application for costs

2. An application for costs was made by Mr J McConnell against Wyre Forest District Council. This application is the subject of a separate Decision.

Procedural Matter

3. As set out above there are two appeals on site. They differ only in respect of the number of dwellings proposed. Appeal A relates to a proposed development for 4 dwellings and Appeal B relates to a proposed development for 2 dwellings. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. In respect of Appeal A I have taken the site address from the Council's decision notice as it appears the address on the application form does not relate to the appeal site.

5. Following determination of planning application 19/0291/PIP by the Council, the appellant has prepared a Heritage Appraisal. It appears that the appraisal was later submitted in support of planning application 19/0621/PP and was before the Council when it made its decision and on which all parties were consulted. I have paid regard to the Heritage Appraisal in consideration of both appeals. I am satisfied that no interested parties have been prejudiced by my approach.

Background

6. The appeal applications are for permission in principle, as provided for in the Town and Country Planning (Permission in Principle) Order 2017. The Planning Practice Guidance (PPG)¹ advises that this is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle from the technical detail. Planning permission does not exist unless both the permission in principle and the technical details are approved. This appeal relates to the first of these two stages.
7. The PPG sets out that the scope of permission in principle applications is limited to location, land use and amount of development. In respect of residential development, an applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum net number of dwellings as part of the application.

Main Issues

8. The main issues are:
 - Whether the proposed development would be consistent with local and national policies relating to the location of new housing development; and
 - The effect of the proposal upon the setting of the Bewdley Conservation Area (CA).

Reasons

Location of new housing

9. Policy DS1 of the Wyre Forest Core Strategy (2010) (CS) sets out the number of houses required in the District, albeit based on figures derived from the revoked Regional Spatial Strategy (RSS). The policy sets out a sequential approach to locating new development based on the settlement hierarchy with housing being directed towards regeneration sites within the Kidderminster Central Area, major brownfield sites in Kidderminster and Stourport-on-Severn and then small brownfield sites in the main towns and market towns including Bewdley. The policy sets out that in Bewdley housing to meet local needs will be suitable.
10. The CS recognises that the market towns, including Bewdley, have a range of services and facilities and are well connected to Kidderminster. In terms of housing Policy DS3 limits it to affordable dwellings to meet local need on allocated sites.

¹ Paragraph: 001 Reference ID: 58-001-20180615

11. Policy SAL.DPL1 of the Wyre Forest Site Allocations and Policies Local Plan (2013) (LP) states that residential development will be permitted on allocated sites or, within Bewdley, on windfall sites of 5 dwellings or less, on previously developed land and in areas allocated for primarily residential development.
12. These policies are broadly consistent with the National Planning Policy Framework's (the Framework) aim to direct housing to accessible locations and the re-use of brownfield land.
13. The site is located within the settlement boundary of Bewdley, in a primarily residential area and on the edge of the town centre. The site is within walking distance of a range of day-to-day services and facilities. However, as the site is not allocated for development, is not previously developed land and as the proposal is not for affordable housing it would be contrary to CS Policies DS1 and DS3 and LP Policy SAL.DP1 which do not support the provision of housing in this location.

Bewdley CA

14. The appeal site comprises an irregular shaped parcel of land located at the end of Church View – a relatively modern residential cul-de-sac sitting on a hillside. The site has been largely cleared but still contains perimeter hedging and scrub planting but contributes to the sense of spaciousness just outside the CA. Church View is elevated from the historic town centre below and occupies a prominent position on the hillside. Due to the significant level differences across the town the site and properties in Church View are an established part of the skyline and visible from a number of viewpoints including from Bewdley Bridge.
15. This side of the CA extending from the river to the site is characterised by a steep change in levels and noticeable clusters of modern and historic houses built on the hillside with pockets of trees and green spaces creating pleasant interludes between the built form. The CA largely derives its architectural and historic interest from the origins of the town as a principal crossing point of the River Severn and later a market town.
16. The Bewdley Conservation Character Appraisal (CAA) sets out a desire for the site and the area around Church View and Richmond Road to remain undeveloped to maintain a green setting on the edge of the CA.
17. The appellant contends that the development parameters, outlined in the Heritage Appraisal, including low level dwellings; maintaining views of the historic town centre and landscaping would mitigate the impact of the development. However, I find that the proposed development and the introduction of built form, associated infrastructure and residential paraphernalia in the form of either 2 or 4 dwellings would erode this green area and unacceptably diminish the contribution it makes to the setting of the CA.
18. Notwithstanding the potential for landscaping low level houses would be highly visible from within the CA and would not, in my view, successfully integrate into the skyline.
19. In light of the above I find that there would be some, albeit limited harm to the setting of the CA. Accordingly, the proposal would be contrary to Policy SAL.UP6 of the LP and Paragraph 127 (c) of the Framework.

20. In this case I conclude that the proposal would lead to less than substantial harm to the setting of the CA. This harm should be weighed against the public benefits of the proposal including, where, appropriate, securing its optimum viable use, which I now turn to.
21. In this regard, the proposal would contribute to local housing supply and help to maintain services and facilities in the town and reduce the potential for fly tipping, but these benefits are modest. I therefore afford them limited weight. Taking into consideration the points above I find that the harm to the CA would outweigh the public benefits of the proposed development.
22. As such, it would harm the setting of the CA contrary to Policy SAL.UP6 of the LP which, amongst other things, seeks to ensure that proposals would not have a detrimental impact on the setting of heritage assets.

Planning Balance

23. Both the CS and the LP are more than five years old and the housing need is derived from the now revoked Regional Spatial Strategy. The Council acknowledge this fact. As a consequence, the minimum supply of five years worth of housing sites should be based on the Local Housing Need (LHN) and the standard methodology set out in the Framework². Notwithstanding previous under delivery of housing the Council submit that they can demonstrate five years supply of deliverable housing sites.
24. Notwithstanding the date of adoption of the CS and LP, the Framework³ sets out that existing policies should not simply be considered out-of-date because they were adopted prior to the publication of it. Due weight should be given to policies depending on their degree of consistency with the Framework.
25. Based on the evidence before me I find that Policies DS01 and DS03 of the CS and Policy SAL.DPL1 of the LP are consistent with the aims and objectives of the Framework. Whilst the housing need is based on the revoked RSS I have not been provided with any credible evidence to indicate that the Council are currently not delivering the required amount of housing in the District.
26. I acknowledge that the site is located within an accessible location on the edge of the town centre within walking distance of a range of day-to-day services providing an alternative to a car and would maintain services and facilities in Bewdley. However, the construction of either 2 or 4 bungalows would make a modest contribution towards the District's housing supply.
27. The economic benefits from the construction of the dwellings would be short term and limited, based on the size of the development. Council Tax mitigates the impact of new development upon services in the area. These are neutral factors in the balance.
28. On the other hand, I have found that both proposals would give rise to harm to the setting of the CA. The adverse impact of which would significantly and demonstrably outweigh the benefits.
29. Therefore, taking the above into consideration paragraph 11(d) of the Framework is not engaged and the presumption in favour of sustainable development does not apply.

² Paragraph 73 of the Framework

³ Paragraph 213 of the Framework

30. Planning law requires that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The conflict with the development plan in respect of both Appeal A and B is not outweighed by other considerations including the Framework.

Conclusion

31. For the reasons set out above both Appeal A and Appeal B do not succeed.

B Thandi

INSPECTOR

Costs Decisions

Site visit made on 18 February 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th May 2020.

Costs application in relation to Appeal A Ref: APP/R1845/W/19/3241012 Land off Church Road, Bewdley DY12 2BZ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr J McConnell for a full award of costs against Wyre Forest District Council.
 - The appeal was against the refusal of planning permission for permission in principle for the erection of 4no. bungalows.
-

Costs application in relation to Appeal B Ref: APP/R1845/W/19/3241014 Land off Church Road, Bewdley DY12 2BZ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr J McConnell for a full award of costs against Wyre Forest District Council.
 - The appeal was against the refusal of planning permission for permission in principle for the erection of 2no. bungalows (re-submission).
-

Decision

1. The application for the award of costs for Appeal A and Appeal B are refused.

Procedural Matter

2. As set out above there are two appeals on site. I have considered each application for the award of costs on their own individual merits. However, to avoid duplication I have dealt with the two applications together, except where otherwise indicated.

Reasons

3. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. The appellant contends the site was purchased following positive pre-application advice and that feedback during the planning application had been

positive, until late into the process. The appellant also contends that the Council has not undertaken an appropriate assessment in respect of the historic environment and produced a reason for refusal that is vague and generalised.

6. I acknowledge the appellant's frustration that he believed that Council Officers were likely to recommend approval. However, informal discussions and advice given before an application is determined is given without prejudice and cannot pre-determine the final outcome of the application. Whilst this change in the Council's position is unfortunate it is apparent that this decision was based on relevant planning policy, guidance and other considerations. I therefore conclude that the actions of the Council do not amount to unreasonable behaviour.
7. Notwithstanding the reference to a previous appeal decision, the Council have produced two cogent reports which include an appropriate assessment of the appeal scheme in respect of the historic environment. In addition, there is no substantive evidence, before me, to indicate that the Council has failed to consider the Heritage Appraisal. As seen from my decision I have found that the Council had reasonable concerns about the impact of the proposed development and has justified its decision rather than making vague, generalised or inaccurate assertions.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason an award of costs is not justified.

B Thandi

INSPECTOR