



Planning Committee

Batchley and Brockhill Ward

6th October 2009

INFORMATION ITEM

(Report of Acting Head of Planning and Building Control)

1. Purpose of Report

To receive an item of information in relation to an outcome of an appeal against a planning decision.

2. Recommendation

The Committee is asked to RESOLVE that
the item of information be noted.

3. Financial, Legal, Policy and Risk Implications

3.1 There are no financial, legal, policy or risk implications for the Council.

Report

4. Background

4.1 Planning Application file.

5. Consultation

5.1 There has been no consultation other than with relevant Borough Council Officers.

6. Other Implications

There are no perceived impacts on Community Safety, Human Resources, Social Exclusion or Sustainability.

7. Author of Report

The author of this report is Ruth Bamford (Acting Head of Planning & Building Control), who can be contacted on extension 3219 (email: ruth.bamford@redditchbc.gov.uk) for more information.

11. Appendices

Appendix 1 - Outcome of Appeal against a Planning Decision

OUTCOME OF APPEAL AGAINST A PLANNING DECISION

Reference: 2008/306/S73

Proposal: Variation of Condition 2 of Planning Permission 2006/537: To reduce the size of the rear gardens of No.71 & 73 and increase the size of the rear garden of No.75.
71 to 75 Bridley Moor Road

(Batchley and Brockhill Ward)

A terrace of three, 3 bed houses were granted consent under application 2006/537, on land within the curtilage and to the North-West of the Batchley & Bridley Moor Social Club. The three dwellings (which have been erected) front onto Bridley Moor Road, with rear gardens facing towards properties on 'Cedar View' to the South.

Under the terms of that consent, all three dwellings were to have gardens of approximately 27 metres in length, extending to a footpath located to the immediate North of properties on Cedar View. Condition 2 (ref 2006/537) required that the development be carried out in accordance with a plan which showed 27 metre long gardens enclosed with 1.8m high close board timber perimeter fencing. The proposed gardens for 71-75 Bridley Moor Road (odds) were to be the same length as gardens serving existing adjacent properties.

As a result of Condition 2, application 2008/306/S73 was made to seek the relief of the condition. It was accepted that the condition could be varied, not relieved, and therefore the application was granted subject to a different condition, and it was that condition which was at issue in the appeal.

Condition 2 of planning permission 2008/306/S73 read:

The parcel of land at the rear of 71-75 Bridley Moor Road shall form part of the curtilage of No.75 Bridley Moor Road in the form of garden provision, and shall be retained as such thereafter. Personnel access to this land shall remain via a gated access off the passageway at the side of No.75 Bridley Moor Road.

Reason: To ensure that the parcel of land at the rear of 71-75 Bridley Moor Road is adequately maintained and remains part of the garden provision for No.75 Bridley Moor Road, and to prevent the land concerned from becoming a derelict site and a visual nuisance in accordance with Policy B(BE).13 of the Borough of Redditch Local Plan No.3

The plan originally submitted and approved under 2006/537 reflected the character and appearance of the surrounding area, since many existing properties in the vicinity have long rear gardens, greatly exceeding the Councils required minimum length (11 metres). The proposed shortening of the garden area (serving numbers 71 and 73) of itself was also considered to be acceptable in as much as each property still benefited from sufficient garden length and area to meet the SPG requirements. Officers however considered that by shortening the rear garden area to number 75 Bridley Moor Road, and effectively 'sealing off' the large parcel of land to the rear, this land would become un-used and un-maintained without any direct access from a public highway, only over privately owned land. This led to a concern that the piece of land could pose security issues, and if not maintained, lead to an unsightly piece of ground in the middle of a residential area. Officers considered that it was difficult to see how else the piece of land could be used given the access difficulties. It is for these reasons that Condition 2 was varied and not relieved, in order that the parcel of land could be properly maintained as private garden for number 75 Bridley Moor Road.

Officers drew the Inspector's attention to Policy B(BE).13 and criteria (v) of this policy which seeks that crime opportunities are designed out of proposals, and expressed concerns that the land would be likely to become of detriment to the visual amenities of the area if not retained and enjoyed as domestic garden curtilage.

Regrettably, the Inspector did not agree, considering that the proposal would not conflict with Policy B(BE).13 criteria (v) concerning security and against crime if the disputed condition was deleted. The Inspector considered that insufficient evidence had been put forward to indicate that the parcel of land would become a derelict site and a visual nuisance to the occupiers of neighbouring properties and considered that there would be other procedures available to the Council to rectify matters. The Inspector considered that the disputed amended condition was unreasonable and unnecessary in the interests of visual amenity and security against crime.

The appeal was ALLOWED, effectively allowing any future owner to shorten the rear garden serving number 75 Bridley Moor Road and not to maintain the parcel of land to the rear as garden in perpetuity.