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# Appeal Decision

Site visit made on 3 October 2016

**by Andy Harwood CMS MSc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 04 November 2016**

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**Appeal Ref: APP/H0738/W/16/3154911**

**529 Yarm Road, Eaglescliffe, Stockton-on-Tees TS16 9BH**

- 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 David Craig against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 15/2689/FUL, dated 25 October 2015, was refused by notice dated 3 February 2016.
  - The development proposed is the erection of detached dormer bungalow with detached garage and means of access.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of detached dormer bungalow with detached garage and means of access at 529 Yarm Road, Eaglescliffe, Stockton-on-Tees TS16 9BH in accordance with the terms of the application, Ref 15/2689/FUL, dated 25 October 2015, subject to the conditions set out in the attached schedule.

## Main Issues

2. The first main issue is the effect of the proposal upon the living conditions of the occupiers at Churchcliffe House with respect to the effect of activity and the degree of overlooking. The second is whether prospective occupants of the proposed dwelling would enjoy satisfactory living conditions with respect to privacy within the garden and inside the building. The third main issue is the effect of the proposal upon the character and appearance of the area.

## Reasons

### *Living conditions*

3. The appeal site is part of the garden of No 529 Yarm Road but is located behind the adjoining property, Churchcliffe House which has a very short rear garden. The bungalow would include bedrooms within the roof space. A small roof light facing towards Churchcliffe House would serve a landing area and would not cause substantial overlooking towards that adjoining property. The other roof lights serving a bedroom would face the other properties to the side at a greater distance from the boundary.
  4. The proposed bungalow would be positioned close to the boundary with the retained garden for No 529. A large proportion of the new dwelling would overlap with the rear wall of Churchcliffe House at a distance of around 12m
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although the rest of the rear elevation would be directed towards the existing gap between the sides of the existing dwellings. Reference is made to measurements shown on the submitted plans being inaccurate but I haven't been provided with specific evidence to demonstrate this.

5. There are patio and other windows in the rear at ground floor level of Churchcliffe House as well as external sitting out space behind the high boundary fence. The construction of the dwelling is likely to generate more activity than would generally occur within the larger existing garden associated with No 529. However, the design has been carefully considered with the main access door proposed towards the northern side of the proposed dwelling away from the most sensitive part of the adjoining property. A large area of garden would be included on that side. The parking and turning area would also be further away from the rear boundary of Churchcliffe House ensuring that activities from vehicles would not have a significant impact upon those adjoining residents.
6. Understandably reference has been made by the Council to the previous dismissed appeal relating to a proposal for 2 dormer bungalows (APP/H0738/A/08/2089009). Some of the drawings proposed at that time have been provided for me to consider. The current proposal allows for more space to the north of the proposed dwelling by moving the footprint much further to the south. The reduction in the number of dwellings along with the more spacious layout in my view would overcome that Inspector's concerns about the concentration of activity and its impact upon neighbouring occupiers.
7. There will be the need for further landscaping which can be secured by a planning condition (along with tree protection measures). The hedge along the rear boundary of the site and other vegetation within the site was overgrown at the time of my visit. I can understand the neighbour's concerns regarding the height of the hedge preventing light into the small garden and rear windows of Churchcliffe House. However I do not consider there would be a significant likelihood that this situation would be made worse due to the change from a garden serving No 529 to a rear garden for the proposed dwelling.
8. In relation to this main issue, I consider the proposal would not have a harmful effect upon the living conditions of the occupiers at Churchcliffe House with respect to the effect of any additional activity or overlooking. This would not conflict with Policy HO3 of the Local Plan<sup>1</sup> (LP).

*Living conditions – prospective residents*

9. There are roof lights within the rear roof slope of Churchcliffe House. These are set up from the eaves level of that dwelling. The Council and occupant of that dwelling confirm that some overlooking over the boundary is already possible.
10. The site is already part of a garden albeit for the existing dwelling at No 529. No additional overlooking would be caused but I acknowledge that the sensitivity to any overlooking may be greater. The roof lights are high up from eaves level and angled backwards which limits the prominence of these and may also limit the degree of overlooking from them. The prospective occupants of the proposed dwelling would not rely solely upon the areas that would be subject to some overlooking. They would also be able to judge for

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<sup>1</sup> Stockton-on-Tees Local Plan, adopted June 1997

themselves whether the arrangement is acceptable before occupying the building.

11. In my opinion the actual and perceived overlooking would not be unreasonable within a residential area where there will never be an expectation of complete privacy. The low, rear windows of the proposed dwelling would be even less affected than the garden area.
12. In relation to this main issue, prospective occupants of the proposed dwelling would enjoy satisfactory living conditions with respect to privacy within the garden and inside the building. This would also not conflict with LP policy HO3.

#### *Character and appearance*

13. The proposal would be accessed from and visible into Muirfield Road rather than Yarm Road. Building designs and layouts are varied and there is generally a smaller scale to the dwellings within Muirfield Road.
14. The site presently includes mature landscaping some of which has become overgrown. This includes trees along the boundary with Muirfield Road which supplement the boundary fence which provides a robust barrier along that side of the site. The roadside boundary is continued for a long stretch of the road although 2 dwellings are located to the north, close to the junction with Yarm Road. These have accesses onto Muirfield Road and open front boundaries interspersed with landscaping. Further along the road, No 19 Muirfield Road is a modern property which has been constructed in a manner that has satisfactorily enabled the retention of a high timber fence as well as landscaping. A similar approach is proposed in this case.
15. No 529 is one of the more traditional larger scale dwellings which front onto Yarm Road set within spacious grounds. Only limited rear views of the dwelling are noticeable from Muirfield Road. The proposed dwelling would not be positioned in tandem with No 529 or as closely related as previous proposals for the site. The proposed dwelling would not look cramped alongside the existing dwelling or behind Churchcliffe House. Sufficient space would remain at the front of the dwelling to enable a good degree of landscaping along with the functional areas required for parking, turning and the detached garage. These matters can be controlled through the imposition of conditions as suggested by the Council.
16. In relation to the third main issue, the proposed bungalow would have an acceptable effect upon the character and appearance of the area. This would comply with LP Policy HO3 and Policy CS3 of the Core Strategy<sup>2</sup>.

#### **Other Matters**

17. I have imposed a condition specifying the relevant drawings to provide certainty that the development will be implemented as proposed. Additional details need to be submitted relating to levels, materials and hard surfacing. I agree that for surface water management reasons it may be preferable for surfacing to be permeable but the words "wherever possible" are insufficiently precise. I have simply required that a scheme is submitted for agreement by

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<sup>2</sup> Stockton-on-Tees Borough, Local Development Framework, Core Strategy, Development Plan Document, adopted March 2010

the Council. I have made some other changes as well to the suggested conditions to make them comply with Planning Practice Guidance (PPG).

18. The PPG confirms that conditions restricting permitted development rights as suggested by the Council should only be used in exceptional circumstances. Such circumstances have not been demonstrated to me and so I have not included such restrictions.

**Conclusion**

19. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*A Harwood*

INSPECTOR

Schedule of conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 'TPS001-2015 Site Plans'; 'TPS002-2015 Elevation and Floor Plans'.
- 3) Notwithstanding details shown on the plans hereby approved, prior to any works commencing on site, a scheme of ground levels and finished floor levels for the dwelling shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate the roof levels of all adjoining properties. The development shall be carried out in accordance with these approved details prior to the occupation of the dwelling.
- 4) Notwithstanding any description of the materials in the application, no development above ground level of the buildings shall be commenced until precise details of the materials to be used in the construction of the external walls and roof of the dwelling have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the occupation of the dwelling.
- 5) None of the development hereby approved shall commence until a scheme for the protection of trees and shrubs has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the precise location of protective fences, areas of material storage within the site and root protection zones. The approved scheme of protection shall be implemented on site prior to construction works commencing and shall be maintained throughout the period of construction.
- 6) Notwithstanding details hereby approved and prior to the commencement of works on site, a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide details including the species, numbers and locations of planting, timescales for implementation, a long term maintenance schedule and management plan where applicable. The development shall be carried out and maintained in accordance with the approved scheme and in accordance with the agreed timescales.
- 7) No construction/building works or deliveries associated with the construction phase of the development shall be carried out except between the hours of 8.00am and 6.00pm on Mondays to Fridays and between 9.00am and 1.00pm on Saturdays. There shall be no construction activity including demolition on Sundays or on Bank Holidays.
- 8) Prior to the occupation of the approved dwelling all hard surfacing shall be constructed in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The development shall be maintained in accordance with the agreed scheme.