



Appeal Decision

Site visit made on 4 September 2019

by H Porter BA(Hons) MScDip IHBC

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Appeal Ref: APP/P1133/W/19/3222830

33 Chestnut Drive, Newton Abbot, TQ12 4JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr R Gibbings against Teignbridge District Council.
 - The application Ref 18/02142/FUL, is dated 15 October 2018.
 - The development proposed is two storey dwelling with parking.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr R Gibbings against Teignbridge District Council. This application is the subject of a separate Decision.

Procedural matter

3. Revised drawings have been submitted by the Appellant during the course of the appeal. The Council have seen and given some comment on these, however, in the interest of natural justice and fairness to all parties, I have dealt with the appeal on the basis of the drawings that were determined by the Council and on which interested parties were consulted.

Background and Main Issues

4. The Council had not determined the application and have confirmed that, had it issued a decision, the proposed development would have been recommended for refusal owing to the effect on local character and living conditions. On this basis, the main issues are:
 - the effect of the proposed development on the character and appearance of the area; and,
 - the effect on the living conditions of the occupiers of No. 33 Chestnut Drive, with regard to outlook and privacy.

Reasons

Character and appearance

5. The appeal site is located at the end of a late 20th century cul-de-sac in a residential suburb on the outskirts of Newton Abbott. Built form locally consists of modestly proportioned, semi-detached dwellings, laid out in groups of similar house types. End plots tend to be larger, providing views to the surrounding

vegetation and a sense of the topography. Overall, the cohesive local development pattern, combined with views to mature planting, contribute positively to the character and appearance of a verdant and spacious suburban environment.

6. 33 Chestnut Drive (No. 33) occupies the end plot within a small group of semi-detached houses of a similar design, set back behind open front gardens and parking areas. Though extended, the dwelling fits comfortably within the street scene, while the side garden that rises steeply to a band of mature trees also makes a positive contribution to the verdant and spacious character and appearance of the wider area.
7. The proposal is to demolish one half of an attached single-storey garage to facilitate access to a detached two-storey, three-bedroomed dwelling that would be positioned on the higher ground at the rear of the garden plot. It is also proposed to construct a new single garage close to the side of No. 33. Although the proposed dwelling would benefit from a good view of the wider landscape, its position towards the rear of the plot would be unrelated to the local development pattern. Moreover, the detached form proposed deviates noticeably from the modest scale of semi-detached dwellings that define the surrounding townscape. The proposed access driveway and elevated topography would exacerbate the uncharacteristic nature of the proposal, which would stand out as harmfully out of place.
8. The currently iteration does not include an attached double garage, which had featured in a previous scheme refused by the Council (LPA Ref 18/00842/FUL). The omission, however, would not meaningfully abate the harmful hard and urbanising impact the proposed dwelling would have on the appeal site. Nor would soft landscaping mitigate the harmful loss of the characteristically green and undeveloped site, and the positive verdant and spacious contribution it currently makes to the area.
9. The proposed development would therefore have a harmful effect on the character and appearance of the area. This would run contrary to the character and quality design aims within Policies S1 and S2 of the Teignbridge Local Plan 2013 – 2033, May 2014 (LP); and Policy NANDP2 of the Newton Abbot Neighbourhood Development Plan 2016 – 2033; and the National Planning Policy Framework revised February 2019 (the Framework).

Living conditions

10. A ground-floor kitchen window and French doors on the first floor are within the flank wall of No. 33. During my site visit I saw that these windows provide an open and pleasant outlook onto the side garden and afford the occupants of No. 33 a good sense of privacy and seclusion.
11. The proposed dwelling would occupy higher ground than No. 33 and would have two bay windows on the ground floor and two above on the first that would provide a direct line of sight to the doors and windows in the flank wall of No. 33. Irrespective of whether the flank wall windows serve primary habitable spaces, within what is a relatively modest dwelling with an open aspect, the appeal scheme would facilitate a perception of being overlooked.
12. Furthermore, the proposed single garage would be extremely close to the ground floor kitchen window, which would look out onto a solid wall. Although the kitchen is served by other windows, and would be likely to gain adequate

light, the outlook would still be severely compromised. Even if a condition could be imposed to secure the installation of obscure glazing at No. 33, of itself, this would also compromise the existing outlook currently provided by the flank wall windows, to the detriment of the living conditions of its occupiers.

13. The appeal scheme would result in an unacceptable degree of unwanted overlooking and loss of outlook for the occupiers of No. 33, causing material harm to their living conditions. Conflict therefore arises with Policy S1 of the LP and the Framework insofar as these seek to protect the residential amenity of existing dwellings.

Other matters

14. The appeal site is situated close to the remains of Milber Camp, a Scheduled Monument and designated heritage asset. Given the scale and nature of the proposal, I do not consider that there would be any harm to the significance or special interest of the Scheduled Monument as a result of development within its setting. However, there remains some possibility of there being archaeological remains on the site. The presence of any such remains and their potential significance should have been determined by means of an assessment. The submitted Heritage Impact Assessment falls short of adequately assessing and interpreting the appeal site's archaeological potential. Without a proportionate preliminary assessment, it would not be possible to establish the nature of the archaeological remains present within the site or to assess the potential impact on it of the development may have on them. To my mind, this is not a matter that could be left to a condition. If I had not been dismissing the appeal for other reasons, the development's unknown potential effect on designated heritage assets would have been another main issue.
15. I note the potential fall-back position should permitted development rights be exercised. However, the Appellant attests that an outbuilding would not be as substantial as the appeal dwelling, nor is there any indication that it would be constructed should this appeal be dismissed. That aside, I have determined the appeal on the basis that planning permission has been applied for and is required.

Conclusion

16. The benefits associated with the provision of one open-market dwelling inside the settlement development limits of Newton Abbott would not outweigh the environmental harm in respect of the character and appearance of the area and the living conditions of the occupiers of No. 33. There are not material considerations sufficient to outweigh the conflict with the development plan. I therefore conclude that the appeal should be dismissed.

H Porter

INSPECTOR