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# Appeal Decision

Site visit made on 3 January 2023

**by J White BA (Hons) MA MRTPI**

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

**Decision date: 24 January 2023**

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**Appeal Ref: APP/P1133/W/22/3298005**

**40 St Luke's Road, Newton Abbot TQ12 4ND**

- 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 Richard Scheffer against Teignbridge District Council.
  - The application Ref 22/00006/FUL, is dated 14 December 2021.
  - The development proposed is a new 2 bed bungalow with garage.
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## Decision

1. The appeal is allowed and planning permission is granted for a new 2 bed bungalow with garage at 40 St Luke's Road, Newton Abbot TQ12 4ND in accordance with the terms of the application, Ref 22/00006/FUL, dated 14 December 2021 subject to the conditions set out in the attached schedule.

## Preliminary Matters

2. The appellant lodged an appeal against non-determination after the expiry of the statutory period without the Local Planning Authority (LPA) having issued a decision. The LPA's statement has outlined the basis of its objections and sets out the putative reasons for refusal. The appellant has responded to these, and I have taken these into consideration in forming the main issues.

## Main Issues

3. The main issues are the effect upon:
  - the character and appearance of the area;
  - the living conditions of the occupiers of 40 St Luke's Road (No 40) and the future occupiers of the proposed dwelling with particular regard to the provision of garden space and outlook, and the living conditions of the occupiers of 38 St Luke's Road (No 38) with particular regard to privacy; and
  - surface water drainage.

## Reasons

### *Character and appearance*

4. The appeal site is part of the enclosed garden to the rear of No 40. It occupies a plot next to St Luke's Close, which is a cul-de-sac street with access from St Luke's Road. The surrounding area has an established residential character and appearance with dwellings within the vicinity of the site predominately

comprising detached bungalows. The dwellings are typically set back from the street behind front gardens with off road parking. Frontages are typically open with low brick boundary walls, although some properties, including the appeal site, have hedges behind the boundary walls.

5. While there is some variety in buildings, the dwellings are typically of simple form, evenly spaced and arranged to face the street. Those dwellings at the head of the cul-de-sac typically have narrower frontages and there are bungalows opposite the appeal site facing onto St Luke's Close. The arrangement of dwellings fronting the road, simple building form and sense of openness contributes strongly to the character and appearance of the area.
6. The appeal proposal would involve the subdivision of the site to accommodate the proposed dwelling. This would reduce the openness of the site and result in two smaller plots. Nevertheless, the existing plot is of comparatively generous proportions and the resultant plots would not be of an abnormally small size within the residential area. The proposal would retain sufficient visual gaps to its neighbours to not appear as over-development and it would not be overly prominent or unusual as part of the visible street scene. As such, the proposal would not alter the general spacious character of the immediate area.
7. The proposed dwelling would be set back from St Luke's Close and arranged to face the street in a similar fashion to the existing bungalows opposite the site. Although part of the existing brick boundary wall and hedgerow alongside St Luke's Close would be removed to provide vehicular access, this would be a relatively small proportion and would reflect other accesses along St Luke's Close without diminishing the established character and appearance of the street.
8. The width of the plot would appear generally consistent with the pattern of development within St Luke's Close as appreciated from the street. Its design, form and materials would respond to and reflect the established built vernacular. It would not appear unduly prominent nor incongruous in this setting and it would integrate effectively with the established street scene and the character of the adjoining built environment.
9. As such, I conclude the proposal would not have a harmful effect upon the character and appearance of the area. In this regard the proposal would not conflict with Policies S1 and S2 of the Teignbridge Local Plan 2013-2033 (the LP), which amongst other things seek to ensure development is of high quality design that maintains or enhances the character and appearance of street scenes and integrates with the character of the adjoining built environment.

#### *Living conditions*

10. The proposal would reduce the rear garden area of No 40. Nonetheless, a large proportion of the garden would be unaffected and a rear garden area, albeit reduced in size, would be retained to the southern side of the bungalow. Whilst the rear garden would be smaller than gardens typically available to neighbouring properties, it would be sufficiently large to allow occupiers space for usual regular activities such as the drying of washing, sitting out and associated activities. The rear garden of the proposed dwelling, although relatively shallow, would be slightly larger overall and, therefore, would also be suitable for future occupiers.

11. In addition, although a new boundary would be formed this would be positioned away from the rear elevation of No 40 and separated by the existing garage. The specific detail of the new boundary treatment could be secured by a condition to ensure a satisfactory height. Whilst the gardens of each property would be enclosed, this contributes to providing a secure and private rear space that would be accessible and useable with suitable light and outlook. Given this and the single storey nature of the development proposed, subject to a condition requiring precise details of the boundary treatment, and despite a change in land levels, there would be no significant overbearing effect or loss of outlook from the openings within the rear elevation of No 40 or the rear garden that would be available.
12. The existing hedgerow along the boundaries of the appeal provides an effective screen to the residential neighbours. The rear garden of No 38 lies to the southwest of the appeal site. The rear/southwest elevation of the proposed dwelling, which would comprise windows including patio style doors, would face southwest. An established Beech hedge forms the boundary with No 38. The LPA is concerned that the proposed dwelling and patio would be afforded views over the hedge, however, because of the height of the hedge, any views would be significantly restricted even taking account of the differences in land levels. Furthermore, due to this intervening boundary and a garage building at No 38, and because of its single storey design and modest scale, I am satisfied that the extent of any overlooking would not be significantly adverse or give rise to a material loss of privacy. Taking into account these considerations, the neighbouring occupiers would suffer no significant loss of privacy through overlooking. However, given the importance of the boundary treatment in providing an effective privacy screen to neighbouring occupiers, it would be necessary to ensure a suitable boundary treatment is secured and maintained via condition.
13. Therefore, for these reasons, I conclude that, subject to condition, the proposal would not have a harmful effect on the living conditions of the occupiers of No 40 or future occupiers of the proposed dwelling with regard to the provision of garden space and outlook. Furthermore, I am satisfied that, subject to condition, there would not be a harmful effect on the living conditions of the occupiers of No 38 with particular regard to privacy. The proposal is not, therefore, contrary to Policy S1 of the LP, which requires amongst other matters that development should not harmfully affect residential amenity of dwellings, including in terms of privacy, outlook and the health and safety of occupants.

#### *Surface water drainage*

14. South West Water in its consultation reply has advised that without clear evidence to demonstrate why the preferred methods listed within the 'Run-off Destination Hierarchy' for drainage have been discounted, the proposal to dispose of surface water via the main sewer is not acceptable. However, in his appeal statement, the appellant has explained that surface water could be managed within the appeal site via a soakaway system. The LPA has provided no substantive evidence to demonstrate that a suitable means of surface water drainage could not be achieved, and, in any case, I see no reason to consider that adequate surface water drainage could not be provided and that further scheme details for drainage could not be satisfactorily secured via condition.

15. Consequently, I conclude that the proposal would be able to provide a suitable means for surface water drainage subject to details being secured via condition. In this regard, therefore, the proposal would not conflict with Policy EN4 of the LP, which amongst other things, seeks to ensure that adequate surface water drainage is provided.

### **Other Matters**

16. I have had regard to the comments raised locally in respect of the proposal in addition to those matters covered by the main issues. In relation to disturbance and disruption associated with the construction of the dwelling, this would be for a limited temporary period only and is not a reason to withhold permission. In respect of wildlife and biodiversity, there is no substantive evidence of protected species and habitats within the site. Due to the limited scale of the development, I do not consider it would lead to harm to sensitive areas within the locality and the effect of development on wildlife would be minimal. I have no compelling evidence to consider that there would be inadequate water pressure for the proposal. The concerns that the development is for financial gain is purely private interest and not considerations I have given any weight.
17. I note that Devon County Council as the Local Highway Authority has not objected to the proposal. The appeal scheme includes a garage and driveway parking space. Furthermore, having viewed the site access, visibility along St Luke's Close and the residential nature of the local access roads, I am satisfied that the frequency and nature of traffic and parking arising from one additional dwelling would not be of such a scale as to cause significant impacts to highway safety or to warrant a refusal of planning permission.

### **Conditions**

18. I have considered the conditions put forward by the LPA. Where necessary I have amended the wording of the conditions for clarity, to reflect the advice in the National Planning Policy Framework (the Framework) and to meet the six tests. I have attached the standard time condition and I have specified the approved plans in the interests of certainty.
19. Conditions 3 and 4, which are 'pre-commencement' conditions and prevent any development approved from commencing until they have been complied with, are considered necessary to have their intended effect. Condition 3 in respect of details for surface water management is required to ensure satisfactory drainage of the site. Conditions 4 and 5 have been imposed to require details of carbon emission reduction measures and the installation of an electric vehicle charging point in accordance with Policies EN3, S7 and S9 of the LP and Policy NANDP1 and Policy NANDP2 of the Newton Abbot Neighbourhood Development Plan 2016-2033. The submission of details of boundary treatments as per condition 6 is necessary in the interests of the living conditions of neighbouring occupiers.
20. The LPA has suggested the removal of permitted development rights. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. However, the single storey nature of the appeal proposal and its modest scale is fundamental in reaching the conclusion that the proposal would have an acceptable effect on the living conditions of neighbouring occupiers. Therefore, a condition removing permitted

development rights for the enlargement of the dwelling is necessary and justified to protect the living conditions of neighbouring occupiers.

## **Conclusion**

21. For the reasons given above, and having regard to the development plan as a whole, I conclude that the appeal should be allowed.

*J White*

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: location plan, Floor Plan, Elevation to St Lukes Close (North East) and Elevation to 38 St Lukes Road (South West), Elevation to 7 St Lukes Close (South East) and Elevation to 40 St Lukes Road (North West), and Street Elevation to St Lukes Close.
- 3) No development shall commence until a scheme for surface water management has been submitted to and approved in writing by the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details before the development is occupied.
- 4) No development shall commence until details of carbon emission reduction measures to be implemented within the development are submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details before the development is occupied.
- 5) Prior to the first occupation of the dwelling, an electric vehicle charging point shall be installed at the site and shall be commissioned and available for use.
- 6) Prior to the first occupation of the dwelling, details of all means of enclosure and retaining structures of the site shall be submitted to and approved in writing by the Local Planning Authority. These shall be constructed in accordance with the approved details before the dwelling is occupied and thereafter retained as approved.
- 7) 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), there shall be no enlargement of the dwelling hereby permitted, including no extensions, no alterations to the roof and no development within the curtilage, other than those expressly authorised by this permission.

## **End of Schedule**