

---

# Appeal Decision

Initial Site visit made on 14 June 2017

**by D Guiver LLB(Hons) Solicitor**

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

**Decision date: 25 July 2017**

---

**Appeal Ref: APP/N2535/W/17/3171266**

**29 St Matthews Close, Cherry Willingham, Lincoln LN3 4LS**

- 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 and Mrs Neil Kempster against the decision of West Lindsey District Council.
  - The application Ref 134766, dated 17 July 2016, was refused by notice dated 16 September 2016.
  - The development proposed is the erection of a single-storey dwelling.
- 

## Decision

1. The appeal is allowed and planning permission is granted for the erection of a single-storey dwelling at 29 St Matthews Close, Cherry Willingham, Lincoln LN3 4LS in accordance with the terms of the application, Ref 134766, dated 17 July 2016, subject to the Schedule of Conditions attached.

## Preliminary Matters

2. Since the date of the decision the Central Lincolnshire Local Plan 2017 (the Local Plan) has been adopted and therefore this appeal is determined in accordance with that Plan. However, Policy LP26, on which the Council now relies, does not differ from Policies STRAT1 and RES1 of the former West Lindsey Local Plan 2006 referred to in the decision notice in any material way that would affect my determination of this appeal.
3. Following the initial site visit, a prior request to view the site from a neighbouring property was brought to my attention, which required a further site visit on 12 July 2017. I have taken this further site visit fully into account in reaching my decision.

## Main Issues

4. The effect of the proposed development on the character and appearance of the area and on the living conditions of the adjoining occupiers.

## Reasons

### *Character and Appearance*

5. St Matthews Close is a small cul-de-sac of around 29 dwellings or so. Buildings are an eclectic mix of two-storey detached and semi-detached houses, bungalows and dormer-bungalows with little in common in design save for brick and roofing materials used in their construction. The footprints of these buildings vary significantly but, with a few exceptions, overall plot sizes are

- relatively modest. For the most part, houses sit close to each other and wider spaces between them tend to be occupied by extensions, garages and outbuildings. The wide variation in such a relatively small number of properties results in an area with no consistent or dominating character and appearance.
6. The appeal site, which lies at the head of the cul-de-sac, is part of an uncharacteristically large plot. The original plot at No 29, which was larger than most, was incorporated into another substantial plot at 3 Barrons Close, which is to the rear of the site. The overall plot differs from other dwellings in that there is a more substantial space between the dwellings at 26 and 29 St Matthews Close. The development would sit in the space between No 26 and No 29 and would occupy part of the existing garden spaces from No 29 and 3 Barrons Close.
  7. The development would result in a plot with a narrow frontage to St Matthews Close of six metres or so, widening to the rear, and would reduce the frontage of the plot at No 29 to around five metres. Many dwellings in the Close have a much wider frontage but there is no uniformity of size because of the winding alignment of the road and the layout at the head of the cul-de-sac, which results in some plots having narrower frontages than others. By virtue of their position, corner properties have either extensive or narrow frontages and the latter do not appear to be cramped or hemmed in.
  8. No 27 St Matthews Close, which is attached to No 29, has a narrow frontage, so the development frontage would reflect other properties close by and would appear no more 'hemmed in' than those existing properties. There is a legitimate concern that narrow frontages can impair vehicular access, but this can be dealt with by imposing a condition securing a minimum width for such access and its retention. I have no reason to suppose, in this regard, that an access of an appropriate width could not be provided within the frontage available.
  9. Nos 26 and 29 are both two-storey houses and the development would be a single-storey bungalow, resulting in a significant variation in the roof-scape. However, there is already wide variation in the roof-scape amongst the dwellings in the Close. Subject to the use of materials consistent with other buildings nearby, I consider that the development would respect its surroundings and would not materially harm the character and appearance of the area. Therefore I conclude that the development would accord with Policy LP26 of the Local Plan that, amongst other things, seeks to ensure that developments respect and enhance the character and local distinctiveness of the an area.

#### *Living Conditions*

10. The development would result in the division of the existing plot between the new dwelling and the existing houses at No 29 and No 3. The overall size of the development plot would be in excess of 200 square metres and the residual plot size for No 29 would be approximately 187 square metres. This is a significant reduction in the available garden space at No 29 but, while it would be a modest area, it would not be unacceptably small or cramped in its context and I find no material harm in this regard.
11. Although not part of the reason for refusal, the Council's statement also refers to concerns in relation to the loss of amenity space to 3 Barrons Close.

However, the residual plot at No 3 would appear significantly larger than both the appeal site and the residual plot at No 29, and therefore I consider that the loss of land to the development would not cause material harm to the living conditions of No 3's occupiers.

12. Neighbours raised issues in respect of the effect of the proposed development on outlook from other dwellings in the cul-de-sac. The concerns were over the effect of the development on a grassed verge and trees close to the appeal site and the proximity of the proposed building to the neighbouring boundary. The Parish Council also raised a concern about the effect of the development on the trees.
13. The proposed extension to the dropped kerb would appear to encroach upon the grass verge by a few metres or so. However, while there are trees nearby they are not on the appeal site or in any place where highway works would be required and therefore the trees would not need to be removed as a consequence of the appeal scheme. The impact on the grass verge is small and would take the appearance of an extension to the existing footpath. The view of the footpath is already well screened from neighbouring properties by the trees and existing boundary hedges and therefore would not be detrimental to the outlook from neighbouring properties.
14. The proximity of the proposed building to the boundary would impact on the outlook for the occupiers of the neighbouring property at No 26. However, the building proposed is a single-storey bungalow and existing and proposed boundary treatments would screen a substantial part of the building. The proposed building's front elevation would sit slightly forward of the front elevation at No 26 but would not be visible other than from the front garden space. In this regard there would be little difference to other properties in this corner of the cul-de-sac and I consider that there would be no harmful effect from the proposal on the outlook from neighbouring properties.
15. Therefore, I conclude that the development would accord with Policy LP26 of the Local Plan that, amongst other things, also seeks to ensure that developments do not unduly harm the living conditions of the occupants of neighbouring properties.

### **Other Matters**

16. Neighbours have also raised issues of parking spaces and highway safety. However, St Matthews Close does not have dedicated on-street parking spaces and the area identified as a potential lost parking space could only be used by creating a significant obstruction in front of No 29, so is not viable. The short road space in front of the appeal site would require vehicles to manoeuvre slowly to navigate an immediate series of bends and it is therefore unlikely that highway safety would be a significant concern. I therefore attach little weight to these matters.
17. A further representation was made suggesting that part of the land where the dropped kerb would be required is privately owned and permission would be refused for any works. It is not within the scope of this appeal for me to determine ownership of property or highway rights over private land.
18. Although not part of the reason for refusal, the Council's statement of case indicates concern in relation to potential overlooking of the rear garden and

rear facing windows of the dwelling proposed by residents of 3 Barrons Court. The development would be a single-storey dwelling and the boundary proposed is 1.8 metre high close-boarded fencing. Given the distance and fence height, I consider that any overlooking of the garden at the appeal site would be minimal and no more than would be common in most housing developments. I consider that direct line of sight into habitable rooms would be unlikely due to the orientation of the respective rear elevations of No 3 and the development. I therefore conclude that the potential impact of overlooking would not be harmful to the living conditions of the development's future occupiers.

## Conditions

19. The Council has suggested a condition restricting the exercise of rights under classes A to G of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015. The Council believes that such restrictions are necessary to preserve the character and appearance of the area and to protect the living conditions of the occupiers of neighbouring dwellings and future occupiers of the scheme as a result of future development.
20. Classes A to C relate to alterations that could potentially impact on the character of the area or the living conditions of the occupiers of neighbouring properties by overlooking, should any additional accommodation or windows be added. While I consider these are not issues with the development as proposed, future alterations could adversely impact on the character and appearance of the area or the living conditions of the occupiers of neighbouring properties, given the relationship of the plot with its neighbours.
21. Classes D and E relate to the addition of other structures within the curtilage of the dwelling. There is potential for additional structures to impact on the privacy of the occupiers of neighbouring properties, or to restrict the garden space for the occupiers of the development. Such development has the potential to cause an unacceptable adverse impact on those respective living conditions. Classes F and G relate to development, including repair and maintenance, of hard surfaces and chimneys, flues and soil pipes. I consider that such development is unlikely to have a significant detrimental impact on the occupiers of the site or neighbouring properties.
22. For the reasons given above I have attached conditions restricting the exercise of rights under Classes A to E, but I consider that any restriction on classes F and G is unnecessary.
23. I have attached a condition to secure the vehicular access for the referred to above and because this would require the extension of an existing dropped kerb outside the appellants' control, it is necessary to ensure that the access is in place before the building is occupied and thereafter retained. To ensure the development would respect its surroundings I have attached a condition requiring the development be constructed using the materials specified in the plans. In the interests of proper planning, I have also attached standard conditions in relation to the time for development and the construction in accordance with approved plans.
24. The Council has proposed a condition requiring submission of a plan relating to foul and surface water drainage. The initial application referred to a plan submitted with it and indicated connection to existing main sewers. I have not had the benefit of seeing the plan and the Council has not suggested that the

proposals were unacceptable. Therefore, I have no evidence before me upon which I can conclude that a condition relating to drainage plans is necessary.

**Conclusion**

25. For the reasons given above, and taking into account all other material considerations, I conclude that the appeal should succeed and planning permission is granted accordingly.

*D Guiver*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 527-2a-001 A, 527-2a-002 A, 527-2a-003 A, 527-2a-004 A, 527-2a-005 A and 527-2a-006 A.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan nos. 527-2a-003 A, 527-2a-005 A and 527-2a-006 A.
- 4) The building shall not be occupied until a vehicular access with a minimum width of 4.5 metres has been constructed in accordance with the approved plans. The access so provided shall be retained thereafter.
- 5) 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 enlargement, improvement or other alteration other than those shown on the approved plans shall be made to the dwelling hereby permitted.
- 6) 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 structure, building or enclosure shall be erected other than those expressly authorised by this permission.