

EXETER CITY COUNCIL

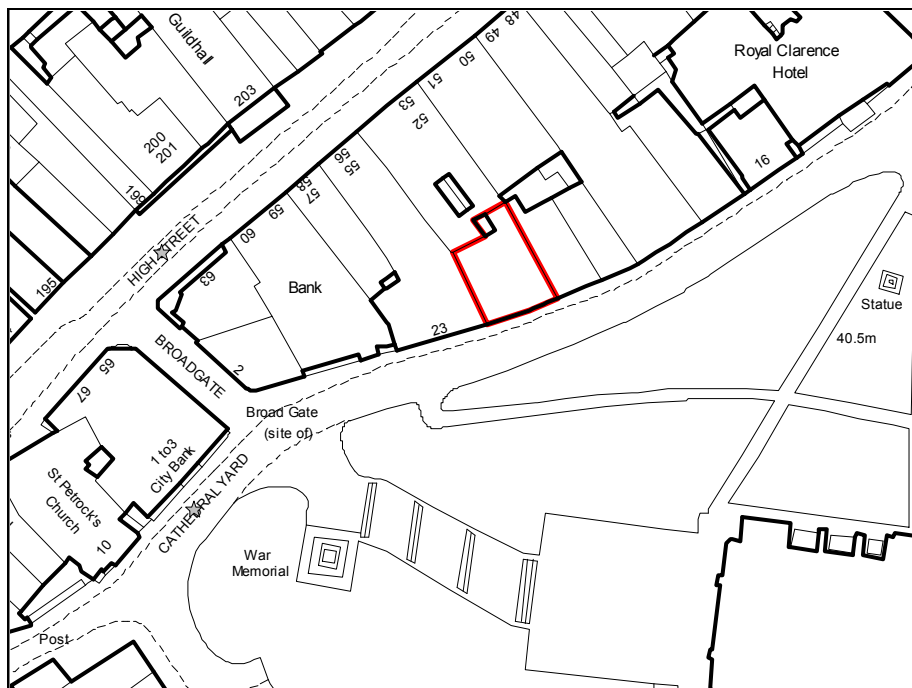
**PLANNING COMMITTEE
05 DECEMBER 2011**

APPEALS

DECISIONS RECEIVED

SUMMARY: 3 appeal decisions have been received since the last report:
All were allowed subject to conditions.

22 Cathedral Yard, Exeter, Devon, EX1 1HB.



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Reference Nos: 11/0727/07 (Application for Listed Building Consent)
11/0728/05 (Application for Advertisement Consent)

Proposal: Non-illuminated hanging sign.

Application Decisions: Delegated Refusal

Type of Appeals: Written Representations

Appeal Decisions: BOTH ALLOWED

Grounds:

The main issue was whether the proposed sign would preserve the special architectural or historic interest of the listed building and preserve or enhance the character or appearance of the Central Conservation Area (CCA).

22 Cathedral Yard is a grade II listed building forming part of the CCA.

The Inspector noted that there was a wide variety of advertisements including awnings and hanging signs on buildings along Cathedral Yard and other streets around the Cathedral. Some of these buildings, including the adjacent property, displayed awnings and hanging signs. The Inspector did not consider that any of these signs harmed the CCA.

The proposed metal sign would hang from a metal bracket and be displayed at fascia level. When the awning on the ground floor retail unit was in use the proposal would be partly obscured. The Inspector described it as a *“very modest-sized sign, which would be made from appropriate materials, would not be unduly prominent or comprise an advertisement excess or clutter”*. He thought the sign would not harm an appreciation of the significance of the listed building or the CCA.

The Inspector noted the Council’s concern that, as the proposal relates to an upper floor use, any consent could set a precedent which could result in clutter on the frontage of an important group of buildings. He agreed that the site occupies a sensitive position and thought it only proper that the Council gave careful scrutiny to proposals in this very attractive and important area of the City. However, he stated that each case must be determined on its own merits. Even if other ‘upper floor businesses’ applied for similar signs in the future, the Council would not be bound to approve them, especially if this would harm heritage assets. He did not therefore consider his decision would set a precedent for other signs.

Listed building consent was granted subject to conditions requiring commencement within 3 years and compliance with the submitted details.

Advertisement consent was granted subject to the five standard conditions set out in the Advertisement Regulations.

54 Pennsylvania Road, Exeter, Devon, EX4 6DB.



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Reference No: 11/0178/03

Proposal: Change of use from 3 flats to a house in multiple occupation. (Appeal against a condition that no part of the development shall be occupied until all residents have been issued with a Green Travel Pack. The reason for the condition was to ensure that all residents were aware of the car free status of the development).

Application Decision: Delegated Refusal

Type of Appeal: Written Representations

Appeal Decision: ALLOWED subject to substitute condition.

Grounds:

The main issue was whether the disputed condition satisfied the tests in paragraph 14 of the Annex to Circular 11/95 'The Use of Conditions in Planning Permissions'.

In determining the appeal the Inspector noted that the lawful use of the premises as 3 flats would qualify for up to 6 residents' parking permits and if the property was used as a single dwelling it could qualify for 2 permits.

The appeal site lies near to the city centre in proximity to two bus stops and a small convenience store. There are parking restrictions along sections of Pennsylvania Road and the neighbouring streets. This includes a residents' parking permit scheme. There is also some limited on-street parking. There is considerable demand for on-street parking in the surrounding streets.

As there were parking problems in this part of the city it was agreed that the disputed condition was relevant to planning. If all seven residents of the permitted HMO were to apply for and obtain residents parking permits this would considerably increase the pressure on the limited on-street parking spaces in the vicinity of the site. In turn, this would be likely to increase congestion and inconvenience existing residents. It would therefore be necessary to make some restriction on the ability of incoming residents to obtain parking permits.

Having carefully considered the matter of the 'Green Travel Pack', the Inspector stated he would be surprised if, regardless of this Travel Pack, incoming residents chose not to familiarise themselves with the services and facilities that can be conveniently accessed from the site. He therefore found that in this instance the requirement to supply a Travel Pack would be unnecessary. The absence of a Travel Pack would not harm important planning interests.

The appellant argued that the disputed condition, whilst relevant to the development permitted, was "*not in scale with the occupation density changes proposed*". Given the lawful use of the site, the Inspector shared the appellant's concern over the 'scale' of the restriction imposed.

Whilst a restriction on applying for parking permits would, in principle, be enforceable, the Inspector considered the wording of the disputed condition would need to be more precise. He thought that enforcing future 'updates' to a Green Travel Pack would be difficult.

The Inspector noted that the Design and Access Statement submitted with the application stated "*..if required by the Highways Department the applicant is willing to allow this to be a car free development without the ability for residents to obtain roadside parking permits.*" The Highway Authority was consulted on the application and advised that the proposal was appropriate as a 'car free' development. The Inspector stated that he had "*considerable sympathy for the Council who now finds itself having to defend the thrust of a condition which, in effect, was offered by the appellant from the outset. The Council has not acted unreasonably*".

Nevertheless, the Inspector was required to determine this appeal on its planning merits. Given the lawful use of the site, he considered it would be unreasonable to prevent all future occupiers from applying for residents' parking permits. Limiting the eligibility to two parking permits, plus disabled drivers, would strike an appropriate balance between the requirements of incoming residents and the need to avoid any serious increase in congestion or inconvenience to neighbouring residents.

He concluded that the disputed planning condition did not meet all of the tests in the Annex to Circular 11/95. However, he also found that some restriction would be needed in respect of residents' parking permits.

The appeal was allowed and planning permission varied by deleting condition No.3 and substituting it for the following condition:

"Before the development hereby permitted is occupied arrangements shall be agreed in writing with the Local Planning Authority and be put in place to ensure that, with the exception of disabled persons, no more than two residents of the development shall obtain a residents' parking permit".

APPEALS LODGED

Application	Proposal	Start Date	Received Date
19 Prospect Park, Exeter, EX4 6NA	Change of use from dwelling to house in multiple occupation (C4 use)	19/10/2011	19/10/2011
Land off Balls Farm Road, Alphington, Exeter, EX2	Erection of single dwelling with associated double garage	20/10/2011	20/10/2011
1 Celia Crescent, Exeter, EX4 9DR	Conservatory on east elevation	20/10/2011	20/10/2011
9 Colleton Crescent, Exeter, EX2 4DG	Alterations to create self-contained basement apartment	27/10/2011	27/10/2011

**RICHARD SHORT
HEAD OF PLANNING AND BUILDING CONTROL**

ECONOMY AND DEVELOPMENT DIRECTORATE

Local Government (Access to Information) Act 1985 (as amended)

Background papers used in compiling the report: -

Letters, application files and appeal documents referred to in report.

Available for inspection from: -

Planning Services, Civic Centre, Paris Street, Exeter (01392) 265223