

EXETER CITY COUNCIL

**PLANNING COMMITTEE
20 FEBRUARY 2012**

APPEALS

DECISIONS RECEIVED

SUMMARY: 4 appeal decisions have been received since the last report:
3 were dismissed and 1 allowed subject to conditions.

3a Parkhouse Road, Exeter EX2 9DB



Scale 1:1250

© Crown copyright. All rights reserved. 100025345. 2011

Based upon the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or Civil proceedings.

Reference No: 11/0611/03

Proposal: Demolition of the existing shop and the construction of a dwelling.

Application Decision: Delegated Refusal

Type of Appeal: Written Representations

Appeal Decision: DISMISSED

Grounds:

The main issues were the effect of the proposed development on the living conditions of the occupiers of 117 Barton Road, and its effect on the character and appearance of the area.

This property is a vacant lean-to shop unit at the end of a two-storey terrace of houses. The appeal proposed the demolition of the existing building and its replacement with a small dwelling.

Living conditions

The Inspector considered that the proposed building would have an unacceptably overbearing effect on 117 Barton Road, the neighbouring house to the east, and would intrude into the outlook from the rear garden and the ground floor rear windows of that property to an unacceptable degree. It would also cast more shadow over the garden of no.117 than the existing lean-to building. He concluded that the proposed development would harm the living conditions of the occupiers of 117 Barton Road, contrary to ELP Policies H2 and DG4 and the *Residential Design* SPD.

Character and appearance

The Inspector agreed with the Council that the building would appear incongruous in the street scene: its single-storey form would sit uncomfortably against the two-storey terrace, and it would be narrower than the existing dwellings. It would harm the rhythm and balance of the terrace. He concluded that the proposed development would harm the character and appearance of the host terrace and of the area. It would be unacceptable by reference to ELP Policies H2 and DG1 and the SPD.

Other Matters

The proposed dwelling would have little storage space, would not be suitable for disabled occupiers, and would provide poor daylighting and outlook for the bedroom and kitchen/dining area. Notwithstanding these shortcomings, the Inspector considered that, if the scheme were acceptable in all other respects, it would offer a basic and relatively affordable dwelling akin to a one-bedroom flat. The outside amenity space, though smaller than the size recommended in the SPD, would be the same size or larger than some other gardens in the locality, and would not be incongruous in this high-density neighbourhood. It would not suffer from shading, and would provide outdoor space in which the occupier(s) of the dwelling would feel at ease.

21, New North Road, Exeter EX4 4HF



Scale 1:1250

© Crown copyright. All rights reserved. 100025345. 2011

Based upon the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or Civil proceedings.

Reference No: 11/1077/03

Proposal: Change of use from a hotel to a house in multiple occupation (HMO).

Application Decision: Delegated Refusal

Type of Appeal: Written Representations

Appeal Decision: DISMISSED

Grounds:

The main issue was the effect of the scheme upon the balance of property uses within the locality.

The appeal property comprises The Braeside Hotel, a substantial, mid-terraced, Grade II listed building located within a predominantly residential area.

The Inspector noted the Council's desire to maintain a mixed and balanced community within the city, an aim supported by national planning policy within PPS1 and PPS3. The Council had identified issues arising from the growing population of students in the city and had responded to concerns that certain areas of Exeter are subject to an over-concentration of HMOs, by adopting its 2011 SPD 'Houses in Multiple Occupation (including C4 Uses)'. The Inspector accepted that the SPD was based upon empirical data relating to houses exempt from Council Tax and submitted data showed an increasing proportion of dwellings within New North Road as being exempt.

It was clear to the Inspector that the SPD sought to address specifically the issue of development that entailed the change of use of homes (Use Class C3) to HMOs rather than, as in this appeal, the change of use of a hotel. However, he considered the basis of the SPD was sound evidence as to the areas of the city affected by an over-concentration of HMOs. To that end, the SPD indicated that the appeal property was situated in an area with a relatively high proportion of HMOs. If No 21 was a home in the terms of Use Class C3, then the proposal would run directly contrary to the aims of the SPD.

Although the SPD was not targeted specifically towards hotel/guesthouse premises, the Inspector noted that the property operated as a hotel on a year round basis and as such provided a service to the city which represented a variation to the established neighbouring residential uses thereby adding a degree of diversity and vibrancy to the mix of uses within the vicinity.

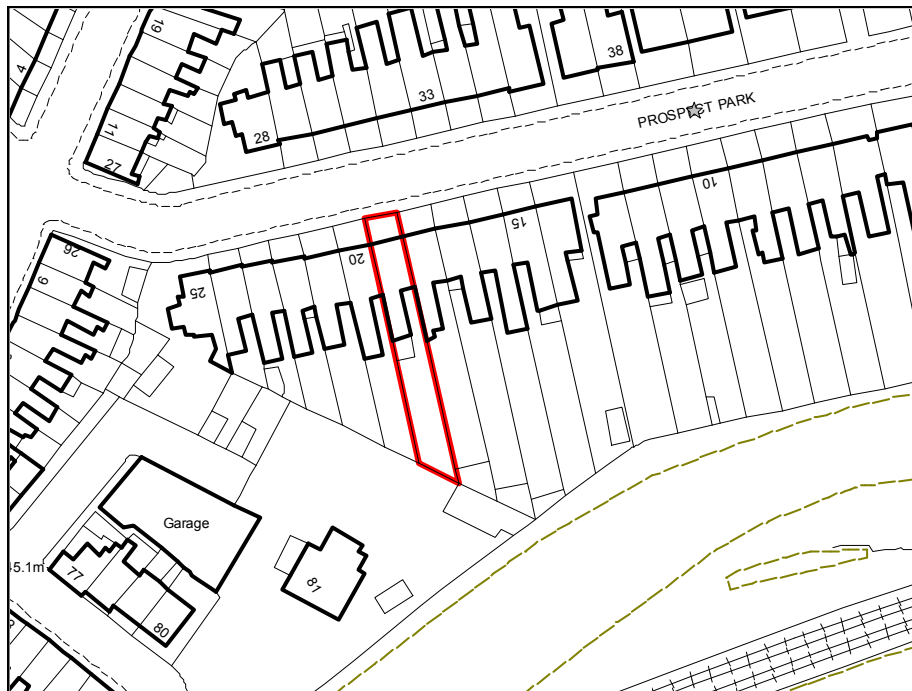
The appeal proposal would alter the existing arrangement. The proportion of HMOs in this area would increase with a detrimental effect upon the balance of uses. The appeal scheme would run contrary to the aims of the LP to ensure that proposals do not create an over-concentration of HMOs in any one area which would alter its character or create an imbalance in the local community.

Whilst there was no evidence to suggest that the property would inevitably be used by students, the Inspector considered that the proximity of the property to the University and the evidence provided by the Council in relation to HMOs suggested that, on the balance of probability, student use would be a likely outcome. This reinforced his concern at the impact of the proposal upon the balance of property uses in the locality.

The appellant argued that a number of new hotels had recently opened within Exeter rendering the hotel use of the appeal property less viable. Whilst recognising that the large size of the property may not readily lend itself to a family home, the Inspector agreed with the Council that there was insufficient detailed information to indicate that the existing use was no longer viable and that the proposed change of use was consequently justified. Even though the proposal would help to maintain the listed building, there was nothing to suggest to the Inspector that the property was under threat from neglect or decay and he considered that this benefit did not weigh so heavily in support of the scheme that a different decision should be reached.

The Inspector concluded that the proposal would have a harmful effect upon the balance of property uses within the locality which ran contrary to the overall thrust of the ELP in such regards.

19 Prospect Park, Exeter, EX4 6NA



Scale 1:1250

© Crown copyright. All rights reserved. 100025345. 2011

Based upon the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or Civil proceedings.

Reference No: 11/1122/03

Proposal: Change of use from dwelling to house in multiple occupation (Use Class C4).

Application Decision: Delegated Refusal

Type of Appeal: Written Representations

Appeal Decision: **ALLOWED** subject to conditions.

Grounds:

The main issue was the effect of the proposed development on the character and balance of the local community.

The Inspector noted that because of concerns about standards of accommodation and their impact on adjoining residential properties and the character of an area, conversions of dwellings to flats, self-contained bed-sitters and houses in multiple occupation (HMOs) were the subject of criteria set out in ELP Policy H5. Criterion (b) stated that proposals should not create an over-concentration of the use which would change the character of the neighbourhood or create an imbalance in the local community.

The ELP was complemented by the *HMO (including Class C4 Uses) SPD*. In the areas to which it applied (which include Prospect Park), the Council resisted any further change of use to HMOs where the proportion of houses exempt for Council Tax

purposes already exceeded 20%. In such areas, planning permission was required for material changes of use from Class C3 to Class C4 following the approval of an Article 4 Direction which took effect on 1 January 2012. The appeal proposal was for a six-bedroom HMO and was, therefore, unacceptable in principle.

The SPD recognised that there may be cases where very localised communities were already so imbalanced that the policy objective of avoiding imbalance was unlikely to be achieved. The SPD listed four factors to which the Council would have regard in considering whether to make an exception to policy.

The appeal site was close to streets which already had a high proportion of HMOs and which were excluded from the Article 4 Direction. The Inspector noted that there were HMOs to each side of no. 19, on the opposite side of the road and, separated by garden areas, to the rear. Because of the site's proximity to HMOs, the appellant and her family had been subject to noise pollution day and night and other anti-social behaviour. The amenities of normal family life had been affected and so one of the four SPD factors provided support for making an exception to policy. On the other hand, there are no other circumstances such as medical considerations of such significance as to amount to severe personal hardship, one of the other SPD factors.

The appellant stated that she felt trapped by the Article 4 Direction because experience elsewhere in the road indicated it would be impossible to sell the house at a realistic price to anyone other than a developer. However, this was disputed by some objectors and the appellant had not attempted to sell the property. It had not, therefore, been demonstrated it would be difficult to achieve this; support for a policy exception was not provided by this factor.

The remaining SPD factor was local representations in support or objection from those directly affected by the proposal. The Council received some 16 representations, most of which were against the proposal. The appellant referred to conversations with others in Prospect Park who were supportive, but the other written evidence suggested that reliance should not be placed on this SPD factor to justify a policy exception.

The Inspector considered that the proposed development would be unacceptable in principle and the SPD factors to which regard was to be had offered only limited support for the proposal. It would conflict with the aims of Policy H5 and the SPD.

However, the appellant's family had moved to rented accommodation elsewhere and since December 2012 the appeal property had been rented to three tenants who shared basic amenities, i.e. it fell within the definition of a Class 4 HMO. Prior to the implementation of the Article 4 Direction, changes of use between dwellinghouses (Class C3) and HMOs could take place without needing to apply for planning permission.

As the Council acknowledged, the property could continue to be occupied as a Class 4 HMO. This represented a fallback position which had been implemented. Consequently, the Inspector concluded that the proposed development would have no materially different effect on the character and balance of the local community than the use which had commenced and so permission should be granted.

The appeal was allowed subject to conditions requiring commencement within three years, compliance with the approved plans and the submission, approval and issuing of a Green Travel Pack to all residents.

24 Dunsford Gardens, Exeter EX4 1LN



Scale 1:1250

© Crown copyright. All rights reserved. 100025345. 2012

Based upon the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or Civil proceedings.

Reference No: 11/1450/03

Proposal: Erection of a two storey, part rear, part side extension.

Application Decision: Delegated Refusal

Type of Appeal: Householder

Appeal Decision: DISMISSED

Grounds:

The main issue was the impact of the proposed development on the character and appearance of the area.

24 Dunsford Gardens is situated in a row of similar properties, where a variety of extensions of various shapes and sizes were evident. The spacing between buildings differed from one site to another and this could constrain the scope of residents to enlarge their accommodation. The Inspector noted that the Council's *Householder's Guide to Extension Design* SPD aimed to raise the standard of "everyday" proposals and required extensions to harmonise with or, where possible, enhance the character of the original house.

The appellant's semi detached house adjoined No 25 where a single storey extension, with a hipped roof, projects from the rear. A two storey side extension had been permitted at No 23, to replace the garage which separated that house from the appeal site, but this had yet to be built.

The extension would wrap around the existing house, projecting 4.3m to the rear and 1.5m to the side of the building. The roof would be pitched on four sides and rise to a flat section that would be lower than the ridge of the host dwelling, so as to appear subservient to the main roof in views from the street. The Inspector considered that this "curious arrangement", of a roof rising out of the corner of another roof, would give the impression of an extension that was poorly related to, and partly independent from, the main building. Rather than integrate with the existing house, the massing of the development would be seen as an awkward addition.

This uncomfortable relationship would be apparent in views from the residential area to the north of the appeal site, and as things stood, it would also be evident when looked at from Dunsford Gardens, to the front of No 23; although such views might be restricted by the recently permitted extension here.

The Inspector concluded that the development would be harmful to the character and appearance of the area, contrary to DSP Policy CO6 and ELP Policy DG1(g).

--- 000 ---

APPEALS LODGED

Application	Proposal	Start Date	Received Date
Plot F, Land to the west of The Coach House, Cleve Lane, Exeter, EX4	Variation of conditions 2 and 10 to approve top opening fanlights and alternative material fabrication to windows on all elevations (Ref. No. 09/1229/03 granted 15 October 2009)	04/01/2012	04/01/2012
Cottage Farm, Belle Vue Road, Exeter, EX4 5BD	Conversion of livery stables to dwelling including infilling of central courtyard, extension and conservatory on west elevation and garage	05/01/2012	05/01/2012
Cottage Farm, Belle Vue Road, Exeter, EX4 5BD	Two storey extension on south-east elevation.	05/01/2012	05/01/2012
15 Vennybridge, Exeter, EX4 8JX	Detached dwelling, access to highway, parking and associated works.	11/01/2012	11/01/2012
Unit 1, The Range, Haven Banks Retail Park, Water Lane, Exeter, EX2	Display of 5 sets of window vinyls on south west elevation, and 3 sets on north west elevation.	18/01/2012	18/01/2012

19 Higher Kings Avenue, Exeter EX4 6JP	Ground floor extension on north elevation.	30/01/2012	30/01/2012
8 Velwell Road, Exeter, EX4 4LE	Change of use of dwellinghouse (Use Class C3) to house in multiple occupation for nine people (sui generis use).	31/01/2012	31/01/2012
6 Ellards Close, Exeter, EX2 6AH	Double doors, balustrade and privacy screen on south west elevation to create first floor balcony.	01/02/2012	01/02/2012
Stable Building, Belle Vue Road, Exeter, EX4 5BP	Change of use and conversion from stables to dwelling and associated works.	02/02/2012	02/02/2012

RICHARD SHORT
ASSISTANT DIRECTOR CITY DEVELOPMENT

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: -

City Development, Civic Centre, Paris Street, Exeter (01392) 265223