

EXETER CITY COUNCIL

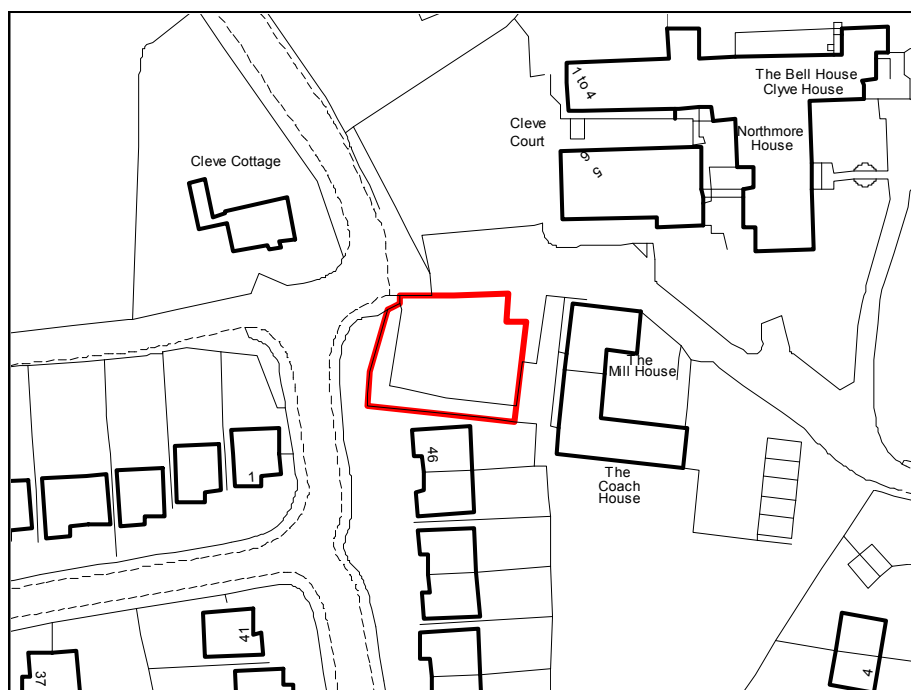
**PLANNING COMMITTEE
23 JULY 2012**

APPEALS

DECISIONS RECEIVED

SUMMARY: 6 appeal decisions have been received since the last report:
4 were dismissed and 2 were allowed subject to conditions.

**Plot F, Land to the West of The Coach House, Cleve Lane, Exwick, Exeter,
Devon, EX4 2AR.**



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Reference No: 11/1121/03

Proposal: Detached building comprising ground floor self-contained flat and
maisonette over, parking and associated works without complying with conditions
attached to planning permission 09/1229/03.

Application Decision: Delegated Refusal

Type of Appeal: Written representations

Appeal Decision: ALLOWED subject to conditions

Grounds:

The conditions in dispute were No. 2, which required compliance with the plans approved at that time, and No. 10, which required the first and second floor windows on the south elevation to be non-opening and obscurely glazed.

The main issue was whether the disputed conditions were necessary to secure a high standard of design and to preserve the setting of the nearby Grade II* listed building known as Cleve House.

The permitted three storey building is being built on part of the former car park to the Grade II listed Cleve House. The Inspector noted the variety in the type/style of windows in Cleve House and its curtilage buildings, including painted timber framed windows and some white UPVc framed windows in the main house. The permitted dwelling would be set apart from the listed building. He thought that its scale and design would be very different to the special qualities of Cleve House; it would neither compete with, nor disrupt, the setting of the listed building.

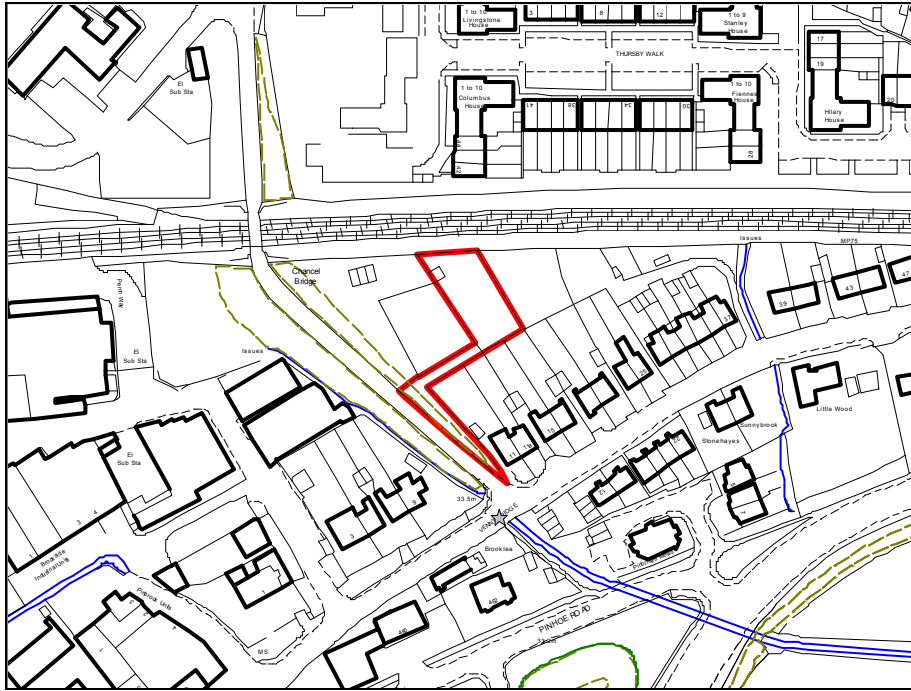
The proposed scheme would allow the appellants to use 'woodgrain effect' UPVc framed windows with top opening lights. Those in the south facing elevation would be opaque glazed to avoid overlooking. The appellants argued that this would provide greater security than the permitted stained timber framed windows, would afford better ventilation and reduce maintenance. The Inspector agreed with the Council that the same benefits could be obtained from using timber framed windows and doors. He also agreed that the type of the permitted windows, which would not have top opening lights and which would use natural products, would have a more pleasing and 'less fussy' appearance than what was proposed. However, that was not to say that the proposed development would be harmful.

The Inspector was of the opinion that, provided 'woodgrain effect' windows were selected that did not have unduly wide frames and a bright sheen, these would be likely to appear as timber when seen from the public realm. The use of this modern material and the style of the windows would not significantly dilute from the contemporary design of the new building, which would continue to have a strong vertical emphasis. These variations in the design would not harm the ability to appreciate the significance of Cleve House as a heritage asset.

The Inspector concluded that the disputed conditions were not necessary to secure a high standard of design and to preserve the setting of Cleve House.

The appeal was allowed and planning permission granted without compliance with condition numbers 2 and 10 previously attached to planning permission 09/1229/03, of 15 October 2009, and subject to new conditions requiring compliance with the revised drawings and the submission and approval of details of the UPVc windows and doors.

15 Venny Bridge, Pinhoe, Exeter EX4 8JX



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Reference No: 11/1314/03

Proposal: Erection of a new dwelling.

Application Decision: Delegated Refusal

Type of Appeal: Written representations

Appeal Decision: DISMISSED

Grounds:

The main issues were the effect on

- i) the character and appearance of the area;
- ii) nature conservation interests;
- iii) the living conditions of the occupiers of 11 Venny Bridge.

Character and appearance

The appeal site is a large extended garden to the rear of 15 Venny Bridge with an access track which begins at the corner of Venny Bridge and Chancel Lane. The area is of mixed residential and commercial character. The Inspector noted that the residential development along Venny Bridge has a strong building line and rhythm with the majority being semi-detached properties.

While there was space on the plot and good separation to nearby properties, the Inspector agreed with the Council that a detached dwelling in this location would

appear isolated in this backland area and unrelated to the other built forms. He considered there to be a cohesive quality to the frontage development along Venny Bridge that would be undermined by the introduction of a dwelling here, particularly one so open to views from Chancel Lane and surrounding properties.

The Inspector considered the design as a whole appeared unremarkable, and only seemed to respond to the site in limiting views to the side and promoting them to the rear. This resulted in an incongruous asymmetric profile which would be seen from the overview of the site from Chancel Lane.

Although there were a examples of development contrary to established building lines in the area many of these appeared to have been infill or backland development. The Inspector pointed out that weight in favour of garden development had diminished in recent years.

The Inspector concluded that a single isolated dwelling of this design and in this location would result in harm to the character and appearance of the area, contrary to development plan policies.

Nature Conservation

In respect of the protection of internationally designated species and habitats, to which the NPPF affords special importance, the Inspector noted that Core Strategy Policy CP16 set out the Council's policy to seek contributions from new development that was likely to have a significant effect on a group of internationally designated sites that surround the city. A particular concern was the additional recreational pressures that may be generated on such sites by new housing development.

The Inspector was advised that, In advance of the development of a full mitigation strategy, the Council had introduced an interim approach that required a financial contribution of £350 per dwelling towards mitigation measures. In the absence of such compensation, the City Council required an appropriate assessment to be made under Regulation 61 of the Habitats and Species Regulations 2010 for each individual development site. In the absence of any such payment being made or assessment being undertaken, the City Council had concluded that planning permission should not be granted.

The appellant asserted that no need for an assessment had been demonstrated and that an interim approach to mitigation should not apply. The Inspector did not agree. He was satisfied that, in light of the conclusions of the Council's HRA, this development should have properly considered the designated sites. In the absence of a formal appropriate assessment or mitigation, he concluded that it conflicted with CS Policy CP16.

Living Conditions

Although the new dwelling would increase activity along the existing access track, the Inspector considered that any increase in noise and disturbance would be negligible. Accordingly, he did not consider that the proposal would conflict with Local Plan Policy DG4.

Application for an award of costs

DISMISSED

The appellant submitted a costs application suggesting that the Council had been unreasonable in their demand for evidence or a monetary contribution regarding the

European designated sites without an appropriate mechanism by which to do so, and that they had failed to substantiate part of their reasons for refusal with sufficient evidence.

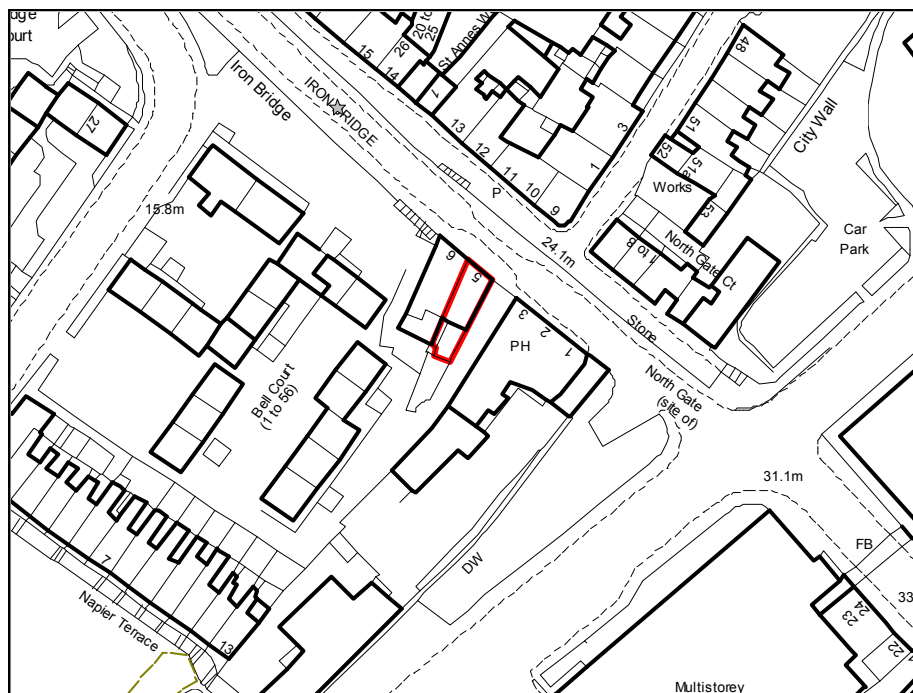
The Inspector found that following the Council's Habitat Regulation Assessment, which identified a threat from recreational pressure from new housing, the Council was entitled to require new development to address impact on the protected European sites. He did not consider that the Council were unreasonable in seeking an individual assessment or mitigation in accordance with the approach developed.

The appellant's claim that the Council had not fully assessed the character of the area was also rejected by the Inspector. He considered the Council had been specific in its concerns as regards the harm to the area, had provided an objective analysis, and in their appeal statements dealt with the design, the setting and the impact of the scheme.

He therefore found that unreasonable behaviour resulting in unnecessary or wasted expense had not been demonstrated.

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5 Iron Bridge, Exeter, Devon, EX4 3RB.



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Reference Nos: 11/1704/07 (Appeal A)
11/1707/03 (Appeal B)

Proposals: Appeal A: Listed building consent application for conversion of basement store to living accommodation by forming a new 1 bedroom apartment.
Appeal B: Planning application for conversion of the basement store to an apartment

Application Decisions: Delegated Refusal

Types of Appeal: Written representations

Appeal Decision: **Appeal A: ALLOWED subject to conditions**
Appeal B: DISMISSED

Grounds:

The Inspector noted that in August 2007, planning permission and listed building consent were granted to convert the basement of this Grade II listed property into a flat (07/1514/03 and 07/1442/07). That scheme was not implemented and the permissions lapsed. In 2010, the Council adopted its '*Residential Design*' SDP and at the beginning of 2012 its Core Strategy (CS). The Inspector agreed that these were important material changes since August 2007. In addition, in 2012 the NPPF was published.

The three main issues were whether the proposals would: preserve the special character of the building and preserve or enhance the character or appearance of the St. David's Conservation Area [both appeals]; provide adequate living conditions for occupiers of the proposed apartment, having particular regard to internal space, lighting and external amenity space [appeal B only] and; be likely to harm nature conservation interests, having particular regard to the Exe Estuary Special Protection Area (SPA) and Ramsar Site [appeal B only].

Listed Building/Conservation Area

The Inspector noted that the Council's Conservation Area Appraisal and Management Plan identifies 5 and 6 Iron Bridge and the 19th century terrace on the opposite side of Iron Bridge, as making a positive contribution to the character and appearance of the Conservation Area.

The Inspector considered that the proposal would secure the re-use of the basement and ensure that this part of the building did not fall into disrepair. He thought that the proposed works and the new use of this part of the building would respect the special qualities of the listed building and add to the vibrancy of the CA. He concluded that listed building consent should not be withheld.

Living Conditions

The gross internal floor area of the proposed apartment would be less than the 50m² (one bedroom two person flat) standard within the Council's SPD. The Inspector agreed with the Council that the submitted drawings showed constrained living accommodation and very limited storage space. He also noted the gloomy living conditions in the existing lower ground floor unit and the shadow cast across part of the site from a Sycamore tree growing alongside. No details had been provided to show that there would be adequate levels of natural light within the new apartment. He considered that incoming residents would be unlikely to feel particularly at ease and comfortable within their home.

The Inspector concluded on this issue that the proposal would fail to provide adequate living conditions (internal space and natural light) for occupiers of the proposed apartment.

Nature Conservation

In respect of the protection of internationally designated species and habitats, to which the NPPF affords special importance, the Inspector noted that Core Strategy Policy CP16 set out the Council's policy to seek contributions from new development that was

likely to have a significant effect on a group of internationally designated sites that surround the city. A particular concern was the additional recreational pressures that may be generated on such sites by new housing development.

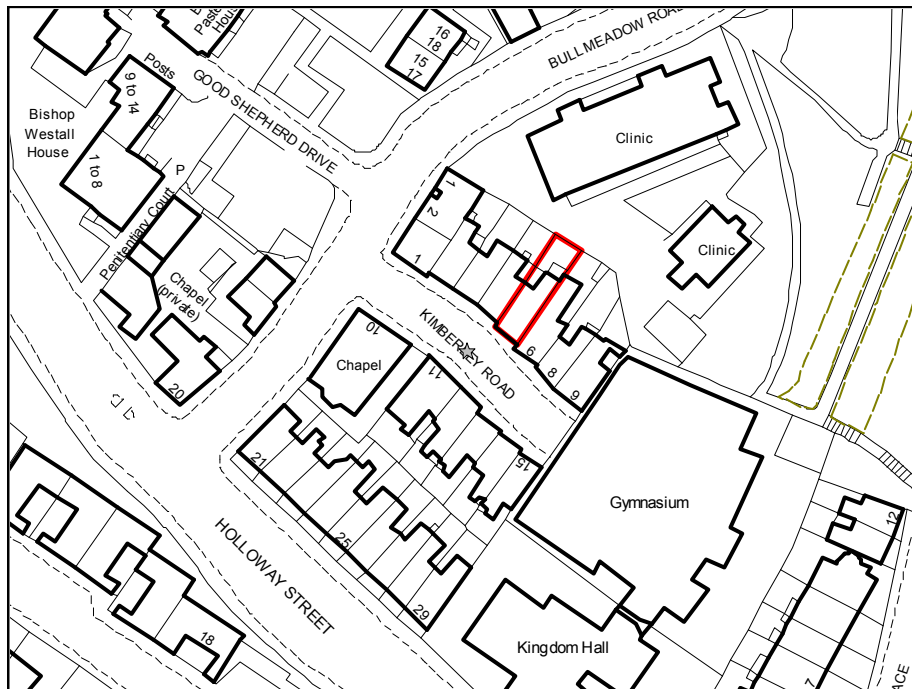
The Inspector was advised that, In advance of the development of a full mitigation strategy, the Council had introduced an interim approach that required a financial contribution of £350 per dwelling towards mitigation measures. In the absence of such compensation, the City Council required an appropriate assessment to be made under Regulation 61 of the Habitats and Species Regulations 2010 for each individual development site. In the absence of any such payment being made or assessment being undertaken, the City Council had concluded that planning permission should not be granted.

The appellant argued that the site was some distance from the SPA and Dawlish Warren and that an additional dwelling in this location would not impact upon important nature conservation interests. The Inspector did not agree. He agreed with the Council that the proposal, in combination with other such developments likely to take place within Exeter, and without any effective mitigation, would be likely to harm the integrity of the Exe Estuary SPA.

Appeal A was allowed and listed building consent granted subject to conditions requiring implementation within 3 years, compliance with the approved plans and the submission and approval of various matters including details of the window frames; roofing materials, rainwater goods and bicycle parking facilities.

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Reference No: 12/0150/03

Proposal: Rear dormer window.

Application Decision: Delegated Refusal

Type of Appeal: Householder

Appeal Decision: DISMISSED

Grounds:

The main issue was the effect of the development on the character and appearance of the host building and of the Southernhay and The Friars Conservation Area.

The appeal property is a mid-terrace two-storey house dating from the early 20th century. The Inspector noted that the rear roof plane was essentially unaltered, so that it had a pleasing and homogeneous appearance. It is located in the Southernhay and The Friars Conservation Area, characterised in this locality by Edwardian terraces. The terrace is identified as making a positive contribution to its character and appearance.

The proposed rear dormer would have a flat roof and would extend across most of the rear roofplane of the property. It would be set just below the ridge.

The rear elevation of the terrace is visible from Bull Meadow Road, in views across the car park of the clinic. The Inspector agreed with the Council that the proposed dormer would be prominent and would appear bulky and intrusive. It would adversely affect the uncluttered appearance of the rear roof plane. He also noted the absence of other dormers on the rear roof plane of the terrace. He considered that if the development were to be permitted, it would set a precedent for similar dormers elsewhere in the terrace, and the cumulative harm would further erode the value of the terrace within the Conservation Area.

The Inspector concluded that the proposed development would harm the character and appearance of the host dwelling and the terrace of which it is part. It would neither preserve nor enhance the character or the appearance of the Conservation Area. It would be contrary to CS Policy CP17 ELP policies C1 and DG1 and the Council's *Householder's Guide SPD*. The harm identified outweighed the benefits which would arise from the provision of additional living accommodation at the property.

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63 Iolanthe Drive, Exeter EX4 9DZ



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Reference No: 12/0181/03

Proposal: Removal of existing garage. Two storey extension providing additional space for new larger family additions. Rework front patio into a raised car port.

Application Decision: Delegated Refusal

Type of Appeal: Householder

Appeal Decision: DISMISSED

Grounds:

The main issue was the effect of the proposed two-storey extension on the character and appearance of the area.

The appeal property is a semi-detached dwelling within a row of similar properties. The Inspector noted the regimented appearance to this part of the street scene that was determined by the uniformity of the architecture and the gaps at first floor level between the pairs of semi-detached dwellings. He agreed with the Council that the existing gap at first floor between the appeal property and No 65 contributed to the overall rhythm and spacing of these properties and was an important feature to the street scene and wider character of the area.

Although the proposed extension would be set away from the side boundary with No 65 by the width of a narrow pedestrian access, it would fill the majority of the space at first floor level above the original garage to the appeal property. Due also to the fact that the

extension would appear as a continuous projection to the side of the existing building, disrupting the symmetrical proportions between the semi-detached pair, it would have a noticeable presence within the street scene. The Inspector considered that, as a consequence the proposal would significantly reduce the overall gap between the 2 properties to a separation that would be atypical when compared with the others within the row. As such, it would fail to respect the rhythm and spacing between the properties along this part of Iolanthe Drive. This would be contrary to ELP Policy DG1, DSP Policy CO6 and CS Policy CP17.

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APPEALS LODGED

Application	Proposal	Start Date	Received Date
12/0554/03 25 Exe Vale Road, Exeter, EX2 6LF	Two storey extension on northeast elevation and ground floor extension on north west elevation.	15/06/2012	15/06/2012

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