

**REPORT TO:** PLANNING COMMITTEE  
**Date of Meeting:** 19 March 2018  
**Report of:** City Development Manager  
**Title:** Appeals Report

**Is this a Key Decision?** No

**Is this an Executive or Council Function?** No

**1. What is the report about?**

- 1.1 The report provides Members with information on latest decisions received and new appeals since the last report.

**2. Recommendation:**

- 2.1 Members are asked to note the report.

**3. Summary of Decisions received:**

- 3.1 **17/0121/OUT - Land to the north of WESC Topsham Road, Exeter – Appeal Dismissed.**

Members will be aware of the lengthy planning history on this site to develop for housing. This application was reported to Planning Committee on 20 March 2017 with an officer recommendation of approval. The application attracted significant objection resulting in just under 400 letter/emails being received. At the meeting whilst Members recognised the need for housing to meet the City's lack of a 5 year housing supply it was resolved to refuse the application on landscape grounds and the detrimental impact the development would have on the Ludwell Valley Park. The applicant originally sought to appeal this decision through an informal hearing. However the Inspector decided that given the clear nature of the issues to be assessed the appeal could be determined by written representations. Despite significant lobbying by local residents for the application to be determined at a public inquiry the Inspector was not persuaded and the appeal was determined under the written representation proceed and dismissed on 13 February 2018.

In summary, the Inspector concluded that the adverse impact of the proposed development in particular '*...the likely effects upon the Ludwell Valley Park and the landscape setting of Exeter significantly and demonstrably outweigh the benefits of the proposal...*' namely the provision of housing to meet the shortfall in the supply of land for housing. It is also notable that the appellant's application for costs was also refused.

**Summary of Inspector's main observations**

In the determination of this appeal the Inspector considered that main issue to be whether any adverse impacts of the proposed development, having particular regard to the likely effects upon the Ludwell Valley Park (LVP) and the landscape setting of Exeter, would significantly and demonstrably outweigh the benefits of the proposal, namely the provision of housing.

In considering the **landscape issues** the Inspector noted that '*...notwithstanding its location on the fringe of Exeter, the Ludwell Valley Park (LVP) has a distinctly rural (countryside) character and appearance that provides an attractive contrast with the built-up areas alongside. The unspoilt open qualities of the appeal site, its undulating landform and agricultural use compliment the pleasing attributes of this area of landscape/LVP and adds to the sense of relief from the built environment. I concur with the Council that the site contributes to a visual appreciation of the park and adds to the feeling of openness for users of LVP. It forms an integral part of the LVP.*'

The Inspector considered whether or not the appeal site forms part of a 'valued landscape' as defined in paragraph 109 of the NPPF and whilst stating that valued landscape is not defined he concluded that all landscapes have some value. He goes on to state that the courts have held that a site must possess demonstrable physical attributes which would take it beyond mere

countryside. He concluded that

*'... the distinctive landscape qualities of this park (such as its undulating fields, dry valleys and scenic qualities); the perceptual aspects of this landscape (as conveyed by many of those who have made representations at application and appeal stages), I have no doubt that the appeal site forms part of a valued landscape'*

The Inspector accepted that *'...in all probability, some greenfield land would have to be released to meet Exeter's housing requirement. The loss of such land would inevitably have some adverse landscape and visual impacts. I recognise the attempts made by the appellant to limit the impact of the proposals. However, the appeal scheme would entail the permanent loss of a sizeable part of the field to housing, roads and other ancillary works... It would dramatically change the rural character and appearance of the site and replace it with an overtly urban form of development.'*

*The proposed development would have a serious adverse effect upon the character and appearance of the LVP and also detract from the landscape setting of Exeter. There would be conflict with the provisions of CS policy CP16, LP policies L1 and LS1 and the objectives of the MP. The proposal would also be at odds with the provisions of the Framework that are aimed at protecting and enhancing valued landscapes. The totality of this harm carries very considerable weight within the planning balance.*

The Inspector noted the considerable **local opposition** to the proposal which included representations from the local County Councillor and the Ludwell Life community group. However he stated that *'...whilst I recognise the Government's 'localism' agenda, public opposition or support for a proposal does not in itself justify refusing or granting planning permission.'*

In respect of **highway matters** the Inspector stated that *'having considered the appellant's detailed Transport Assessment (TA) and separate Travel Plan neither the Council nor officers acting on behalf of Devon County Council as Local Highway Authority have raised any highway objections. I note the City Council's concerns over the County Council's resolution that it was "not able to submit any view on this application". Whatever the reason behind this resolution the stance taken by members of the County Council's Development Management Committee does not assist the planning process. Whilst I note the concerns of some interested parties regarding highway issues, there is no cogent evidence to justify reaching a different conclusion to the TA that the proposed development would have safe, convenient and appropriate access arrangements with adequate car parking provision.*

In **balancing the planning issues** of housing supply against impact on the landscape the Inspector state that *'...whilst the appeal scheme accords with some aspects of the development plan I have found conflict with other policies. Providing sufficient homes to meet the needs of the community is an important element of the plan. However, it is not the intention of the plan for this to be achieved at the expense of important environmental assets such as the LVP. The proposal would conflict with the provisions of the development plan when considered as a whole.*

*The proposal would satisfy the economic dimension to sustainable development as set out within the Framework. There would also be some social and environmental benefits. However, the harm that I have identified to the LVP leads me to conclude that the proposal would not satisfy the social and environmental dimensions to sustainable development. The shortfall in housing land supply does not override other considerations. The proposal would be contrary to the policies of the Framework taken as a whole.*

### **Inspector's comment on the appellant's costs application**

The Inspector concluded that *'...matters relating to landscape and visual impact assessment are largely subjective. The appellant's evidence and the planning officer's report to committee acknowledge that the proposed development would result in some adverse impacts.*

*In considering the proposal Members of the Council would have been familiar with the site and surroundings and, amongst other things, would have noted the comments within the officer's report that "Previously assessments have concluded that development of the site would damage*

*the landscape character and appearance of the Valley Park and these views have been supported by an Appeal Inspector and the Secretary of State.” It is unsurprising that concerns were expressed by the Council over the impact on the LVP/setting of Exeter.*

The Inspector stated that Members were also aware of the housing land supply situation within the city and the benefits that would be derived from the appeal scheme. In substantiating its concerns at appeal stage the Council commissioned a firm of landscape architects to undertake a landscape appraisal of the site/appeal scheme. Amongst other things, this identified the value of the site to the LVP and the setting of Exeter. It was not unreasonable for the Council to find that the adverse impacts significantly and demonstrably outweighed the benefits. This costs application should not therefore succeed.

### **3.2 17/0898/FUL – 34 Denmark Road – Roof terrace with balustrades.**

The appeal at 34 Denmark Road, for a roof terrace and balustrades has been allowed.

The neighbouring building, Crossley House, is a block of sheltered flats for elderly residents. The application was refused for the impact on the occupiers of Crossley House, particularly regarding privacy, outlook and potential disturbance from the use of the roof terrace. A previous application was dismissed on appeal in 2010.

The Inspector concluded the levels of privacy for the neighbours would not be compromised, due to the proposed opaque glass privacy screen, and the distance between the site and neighbouring flats. The Inspector has conditioned a taller privacy screen than that originally submitted. While the glazed screen would be visible from Crossley House, the Inspector said it would not be an overbearing or unattractive feature.

While the Inspector acknowledged that there is the potential for noise from social gatherings on the terrace, he was not persuaded that this would be likely to cause significant disturbance for occupiers of Crossley House.

The Inspector concluded the proposal would not compromise the quality of amenity which allows residents to feel at ease within their homes and gardens and the appeal was allowed.

### **3.3 17/0324/FUL – 8 Lyndhurst Road – Roof Terrace with glass guarding at first floor level.**

This appeal related to one matter in a wider scheme to re-order the layout of a Grade II listed building, located within the St. Leonards Conservation Area, to enable it to return to a single dwelling. In the recent past, it had been a museum and a doctor's surgery.

The Council had no objections to the majority of the proposed alterations but concluded that the replacement of a first floor sash window with French doors, to create a small balcony area on top of the porch at the front of the building, would introduce an alien feature that would harm the character, appearance and significance of designated heritage assets.

The Planning Inspector accepted the case put forward by the Council and dismissed the appeal. He stated:-

*“The proposed French doors would introduce a different style of first floor opening in the building. The top of the doors would also be appreciably lower than the windows in the front bays. These works would disrupt the harmonious detailing/appearance of the building and erode its special architectural qualities. In the context of the National Planning Policy Framework (the Framework) this would amount to less than substantial harm to the significance of this heritage asset. This disruption would also, to a limited extent, detract from the special architectural qualities of the row of listed buildings and the contribution these make to the significance of the SCA.”*

### **3.4 17/0899/FUL -13A & 13B St James Road. Change of use and conversion of domestic storage building into a dwelling with parking.**

The Inspector considered the main impacts to be the poor living environment the dwelling would provide for future occupiers.

The buildings positioning, surrounded on three sides by existing structures and with only roof lights serving the bedrooms to the rear, would create a gloomy and oppressive living environment in these rooms. With all other windows on the front north-west elevation, outlook was poor and there would not receive direct sunlight.

The proposed amenity space was well below the Councils minimum required standard, with a poor outlook and enclosed nature it would also be heavily overlooked.

The proposal that this would form additional student accommodation, additional student housing in this area would be contrary to the neighbourhood plan.

The appeal was dismissed.

The most noteworthy part of the decision is that the Inspector acknowledges that “the level of harm would be at the lower end of the spectrum of less than substantial harm” but nonetheless he affirms that “great weight must be given to the conservation of designated heritage assets.”

#### **4. New Appeals:**

- 4.1 **17/1202/FUL – Land to rear of 73-77 Wardrew Road** – The application sought the demolition of existing garages and construction of a dwelling.
- 4.2 **17/1653/FUL - Rosary House, 27 Fore Street, Heavitree** – The application a two storey extension, infill courtyard to create kennels, single storey extension to replace existing store rooms.

#### **CITY DEVELOPMENT MANAGER**

##### **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 are available for inspection from: City Development, Civic Centre, Paris Street, Exeter

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