

**REPORT TO: PLANNING COMMITTEE**  
**Date of Meeting: 23 JULY 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 **14 South Avenue – Ref 17/1650/FUL. The application sought a single storey rear extension (with flat roof, as opposed to the extension previously granted consent)**

This appeal has been allowed. The key considerations were:

- The living conditions of the occupiers of 16 South Avenue
- The character and appearance of Month Le Grand conservation area

Nos. 14 and 16 each have a projecting rear tenement away from the shared boundary creating a recessed side return that runs to the original rear elevation and windows/doors of main habitable rooms.

The proposal would infill No.14's side return running along No.16's boundary with a flat roof extension that would wrap around the two storey tenement. The proposal appealed non-determination but would have been refused because of the perceived tunnelling effect that would result for No.16, contributing to a loss of natural light in a main habitable downstairs room, and the overbearing nature of the boundary being flanked by a mass of wall. A previous scheme whereby the extension had a pitched and hipped roof was believed to alleviate these concerns by reducing the massing on the boundary, and be of a design that better reflects and respects the character and appearance of the dwelling and conservation area.

The Inspector allowed the appeal on the following grounds relating to living conditions:

- The Householder's Guide SPD has limited weight regarding the length of extensions as it does not distinguish between properties with flat rear elevations and those with a stepped rear elevation.
- The proposed extension would be visible from No.16, however outlook is already impaired by the two storey rear projection at No.14 and the boundary wall guides the main outlook towards its own garden.
- The increase in boundary height is not considered to be great enough to cause a harmful tunnelling effect.
- No substantive evidence has been presented to suggest that the proposal will reduce

the available light falling to the rear and side facing windows of No.16 any more than the existing two storey projection.

Conclusion:

The proposal would not harm the living conditions of No.16 and therefore complies with the principles of the Development Plan that seek to ensure living conditions are protected, and residents can feel at ease within their homes and gardens.

The Inspector allowed the appeal on the following grounds relating to the character and appearance of the conservation area:

- Positive contribution of the building to the conservation area is believed to derive from stature of buildings, the appearance of their front elevations, and relationship with the road
- Flat roofs are not a common design in the immediate area, however the proposal is single storey and is not believed to be visible from any public places.
- The rear parapet is believed to give it appropriate proportions when viewed against the existing elevations of the rear of the main property.

Conclusion:

The proposal complies with policies CP17 of the Exeter Core Strategy, Policies DG1 and C1 of the Local Plan seeking high quality design, and preserving or enhancing the character and appearance of the conservation area.

The Inspector concluded that whilst the Council negotiated amendments to a previous scheme to overcome concerns the appeal proposal was found to be equally acceptable on the main issues.

### 3.2 **Gipsy Hill Hotel, Monkerton – Ref 17/0848/FUL. Proposed demolition of existing single storey accommodation block and construction of new self catering apartment block together with the refurbishment and extension to and existing adjacent hotel accommodation block.**

The appeal was dismissed.

Access to the site was proposed via Pinn Lane/Gipsy Hill Lane. Both are 'green streets' in the ST SPD/Monkerton Masterplan and the latter is a primary cycle route. Gipsy Hill Lane is very narrow with no footways or lighting, hence pedestrians and cyclists currently have to share it with vehicles accessing the Hotel and adjacent residential properties. Whilst the appeal was against non-determination, it was refused for being contrary to a number of DP policies prioritising pedestrian/cycle movement over vehicles and paras 32 and 41 of the NPPF. The development would have increased vehicle movements along Gipsy Hill Lane increasing the likelihood of conflicts arising between vehicles and pedestrian/cyclists and no mitigation was proposed by the appellant. In addition, no habitats contribution was secured for the proposed 'serviced apartments'. The economic benefits of the proposal did not outweigh these issues therefore the proposal was not 'sustainable' in the context of the NPPF.

Applicants should aim to provide segregated paths for pedestrians/cyclists, particularly on routes that have been designated in this regard.

The appellant contested the wording in Para 32 of the NPPF stating that 'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.' Because the appeal proposal generated a relatively low volume of traffic, the appellant argued that this sentence meant that Para 32 did not apply to the proposed development, pertinently the part stating that 'Plans and decisions should take account of whether... safe and suitable access to the site can be achieved for all people.' The Inspector agreed with the Council's position, as evidenced by another appeal decision, that 'severe' only refers to highway capacity and congestion issues, not safety issues – 'highway safety impacts do not need to be severe in order to render the appeal scheme unacceptable.'

At the same time as this appeal has been running an application for 62 dwellings on the neighbouring site (Sandrock) is being negotiated to try and overcome these issues. The Sandrock application received a resolution to approve subject to s106 at Planning Committee on 25 June and includes a new 3.5m wide segregated pedestrian/cycle path to Gipsy Hill Lane, widening of Gipsy Hill Lane to 4.8m and funding to deliver a segregated path to Pinn Lane. When this infrastructure is delivered it will overcome the majority of the access issues to the appeal site and make the existing situation safer for all users.

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

4.1 No new appeals have been received.

### **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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