

REPORT TO: PLANNING COMMITTEE
Date of Meeting: 29 OCTOBER 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 20 Cornflower Hill, Exeter – Application Ref 18/0445/FUL.

The application was retrospective for a single storey rear extension.

The appeal site is a semi-detached property within an established residential area. The conservatory extension projects 5 metres from the rear elevation of the property and due to the drop in level to the neighbouring property, the development protrudes significantly above the existing boundary fence and rises above the sill of the first floor level windows at the neighbouring property.

The Inspector considered that the depth of the conservatory, combined with its height, proximity to the boundary and substantial changes in level, constitute an oppressive and visually intrusive outlook for the occupiers of the adjoining property.

Finding unacceptable harm to the living conditions of the occupants of 18 Cornflower Hill, the Inspector dismissed the appeal.

The extension had originally been constructed under the prior approval procedure (neighbour consultation scheme). However, the notification was not received by the Council. The appellant raised concerns about the Householder Guide to Extension Design SPD and noted that the aim of the document was primarily to provide design principles for householder extensions which were considered relevant to this appeal and accord with key principles set within the framework.

The application for award of costs was also refused, with the Inspector concluding there was no unreasonable behaviour that has directly caused another party to incur unnecessary or wasted expense in the appeal process. The applicant's grounds for applying for an award of costs were lack of evidence from the Council to demonstrate issues raised within the planning statement, the relevance of the Householder Guide to Extension Design SPD and the 'fall back' position following the decision to refuse planning permission.

As above the SPD was found to be relevant to this appeal as it amplifies the saved policies DG1 and DG4. The supporting documents are referred to in the report which suggests it was taken into consideration. The Inspector also concluded that the reasons for refusal were clearly detailed within the decision notice and the supporting officer report.

3.2 16 Higher Kings Avenue, Exeter – Application Ref 17/110/FUL

The application sought a single storey rear extension.

The main issues were the effect of the proposal upon the living conditions of the occupants of no.18 Higher Kings Avenue, with particular reference to light, outlook and privacy; and the character and appearance of the dwelling and the area.

Located within an established residential area, the appeal site comprises a semi-detached dwelling set within a proportionately sized plot. There is an existing terrace to the rear of the property, beyond which land drops considerably into the garden area. The boundary shared with the adjoining dwelling at no.18 Higher Kings Avenue is currently marked by a 1.6 metre high timber fence where the terrace is located. Beyond that point, it then extends in a staggered fashion to reflect the changes in level, and is complemented with landscaping to soften the appearance of the fence.

The proposed extension would be built within proximity to the boundary shared with no.18 Higher Kings Avenue. It would also be directly adjacent to the sliding doors serving the living room of this neighbouring property, which provide access onto a terrace. Although only part of the extension would sit alongside the shared boundary before being angled away from no.18, the Inspector considered that it would, by reason of its height, massing, depth and closeness, appear oppressive and overbearing to existing and future occupants of this adjoining property. As well as appearing visually intrusive, the extension would cause harm to the outlook from within this property's habitable room and outdoor amenity area to an unacceptable degree.

The Inspector noted that the proposed terrace would extend further into the plot, where changes in level are particularly pronounced. Although overlooking of gardens is to some extent unavoidable in this suburban setting, the elevated position of the terrace and staircase would in this instance enable views into the garden of the neighbouring property above the intervening boundary fence to a harmful degree. The proposal included a landscaping strategy, which would include additional planting to act as a screen in order to reduce overlooking. The appellant also suggested a condition requiring the installation of a privacy screen. However, given the layout of the proposed development and site topography, he did not consider that new planting or a privacy screen would be able to successfully mitigate the potential loss of privacy due to overlooking.

The appellant had submitted a review of the light and solar orientation which showed that the impact of the extension on the living conditions of the adjoining property would be minimal with regard to day lighting, due to the southern orientation of the gardens. Based on the evidence, he considered that there would not be a significant loss of light to no.18. However, this did not alter or outweigh the harm that would be caused to the living conditions of these neighbouring residents, with regard to outlook and privacy.

For these reasons, the Inspector concluded that the proposed development would have an adverse effect on the living conditions of the existing and future residents of no.18 Higher Kings Avenue, with regard to outlook and privacy. It would subsequently fail to accord with the aims of saved Policies DG1(f), DG1(g) and DG4(b) of the Exeter Local Plan First Review 1995-2011 (the Local Plan), which he found to be broadly consistent with the National Planning Policy Framework (the Framework), and the Householder's Guide to Extension Design Supplementary Planning Document, Adopted September 2008 (the SPD). It would also be contrary to paragraph 127(f) of the Framework, in that it would not provide a high standard of amenity for existing and future users.

The proposed extension would be characterised by its contemporary appearance, which would be notably built using different materials to the host dwelling. The appellant submitted a design statement in support of the planning application, to justify the contemporary approach of the proposal and choice of materials. In addition to this, the Inspector had regard to the further evidence prepared as part of the appeal, explaining how it would complement the host property and the local vicinity, in accordance with the requirements set

within the SPD. He considered that the contemporary appearance of the proposed extension had been satisfactorily justified. On this issue, he therefore concluded that the design of the proposal would not cause harm to the character and appearance of the host dwelling and the local vicinity. As such, it would accord with Policy DG1 of the Exeter Local Plan First Review 1995-2011 and the Householder's Guide to Extension Design SPD.

The Inspector was referred to other extensions which have been granted planning permission by the Council at Nos.2, 10 and 56 Higher Kings Avenue. However, each proposal has to be assessed on its own merits and, other than being located on the same road, he was not persuaded that the circumstances of these other cases are directly comparable to the appeal proposal. Based on the evidence, nothing suggested that the Council's decision-making has been inconsistent.

He noted the comments made by the appellant regarding the age of the SPD, and subsequent changes to national legislation. However, the SPD clearly states that it solely applies to developments requiring planning permission. Having regard to the SPD, he has found that the design principles set out within this document were relevant to this appeal and were in accord with the design principles contained within the National Planning Policy Framework, particularly paragraph 127.

The appellant also suggested that a large outbuilding could be built alongside the boundary with no.18 at a height of 2.5m without the need for planning permission. However, the Inspector had no substantive evidence indicating that there was a realistic prospect that such an outbuilding would be constructed, should this appeal be dismissed, thus limiting the weight he could afford to this argument. Furthermore, this would not outweigh the harm which would be caused.

The neighbouring resident was concerned that the proposed development would encroach onto land within her ownership and cause the loss of her boundary wall. However, ownership issues constitute a private matter between the relevant parties, outside the Inspector's jurisdiction.

Although the proposal would not have an adverse effect upon the character and appearance of the dwelling and area, he found that it would have a materially harmful effect upon the living conditions of existing and future occupants of no.18. The other considerations advanced did not outweigh this finding.

The Inspector therefore concluded that the appeal should be dismissed.

4. New Appeals

4.1 17/1924/ADV – Renslade House, Bonhay Road, Exeter.

The application sought a sign in relation to use as Holiday Inn Express hotel.

5. Appeal Withdrawn

5.1 17/1879/FUL – Grove Hill House, Grove Hill, Topsham.

The application sought a new dwelling in the grounds of Grove Hill House.

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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