

REPORT TO: PLANNING COMMITTEE
Date of Meeting: 18 March 2019
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 **18/0334/FUL** – 4 Penleonard Close, Exeter. APPEAL ALLOWED.

The application sought a rear extension and demolition of a garden room and construction of a music room

The appeal has been allowed in respect of the above scheme. During application discussions, the Council advised that alterations and further extension to the rear of this property had potential, but the music room element should be separate from the original dwelling house and proposed extension; and the music room height should not increase in height with distance from the dwelling house to ensure the scheme (totalling 14.8m in depth from the original rear elevation) was subservient and did not harm the character and appearance of the original house.

The main issues were the effect of the development on

- the character and appearance of the original house and, consequently, the St Leonard's Conservation Area;
- the living conditions of the occupants of 3 Penleonard Close having particular regard to light and outlook.

To take each in turn, the Inspector noted some uniformity and distinctiveness to Penleonard Close making a positive contribution to the prevailing character of the conservation area. However, Penleonard Close is not specifically mentioned in the St Leonard's Conservation Area Appraisal and Management Plan. The distinctiveness was found to be much less marked to the rear of the property as various extensions, alterations and outbuildings are apparent and the appeal dwelling has itself been significantly altered. While these existing alterations are partly visible from public viewpoints, they were not considered to have affected the contribution the house makes to the conservation area. Equally, the limited view of the proposed development from the street and front of the property was concluded to have no greater impact upon the conservation area than the development it will replace, and therefore concluded to not harm the character or appearance of the conservation area. He considered the contemporary flat roof design, with varying heights, to add interest and to contrast well with the traditional style of the house to ensure the two parts would be clearly discernable. It was also concluded that the development to be of modest height and therefore be subservient to the original house, and despite conflicting with the maximum depth and width advised in the Householder's Guide to Extension Design SPD, the development was viewed to accord with the aims of the SPD as it was found to be subservient. The development is not considered to affect the grain of development as the house would still appear as a detached dwelling with a

spacious garden. It was also concluded there would be no harm to the character and appearance of the dwelling, and therefore the private views of the site would not be harmed by the development.

The Inspector also concluded that the replacement of the pitched garden room roof with a flat roof, including parapet wall, some 8m in depth at 1.4m higher than the eaves line of the existing garden room along the boundary with No.3, would be lower in height than the existing garden room roof ridge and the new structure would result in an overall reduction of height and mass. Consequently, the Inspector concluded there to be no loss of light or outlook to the windows in the rear elevation of No.3 and, while the increased height along the boundary would have greater impact upon the No.3's garden than is currently experienced, it was found to be limited and the majority of the garden remains unaffected therefore, on balance, it was concluded to not result in harmful loss of light or outlook from the garden of No.3. The proposals would therefore comply with Policy DG4 of the Local Plan.

3.2 **18/0555/FUL** – 20 Victoria Street. APPEAL DISMISSED

The application sought ground and first floor extensions.

The main issues were:

- a) The effect of the development on the character and appearance of the host dwelling;
- b) The effect of the development on the living conditions of the occupants of neighbouring dwellings, with particular regard to outlook and light; and
- c) The effect of the reduced area of garden space on the living conditions of future occupants.

To take each issue in turn, the Inspector considered the full width ground floor extension would not result in harm to the appearance and character of the dwelling, despite its depth of 8.5m exceeding the Householders Guide to Extension Design SPD, due to similar ground floor extensions in the immediate vicinity, and limited private views. The proposed first floor extension would have a greater impact on the character and appearance of the house. This is because few other houses in this terrace have first floor extensions, and none in the immediate vicinity projects as far as the 6.1m depth proposed under this scheme. The first floor extension would also be more widely visible than the ground floor element. Its prominence would be further increased by the use of timber boarding as an external material, which is not characteristic of the area. In summary, the scale and materials of the first floor extension would be unsympathetic to the appearance and character of the existing house and would be contrary to policy.

In terms of impact on neighbours, the Inspector considered the ground floor extension would have a limited impact on neighbours amenity and was acceptable. The first floor extension would result in solid wall at first floor level, projecting about 5 metres beyond the rear elevation of the neighbouring properties. This would have a harmful impact on the outlook from windows for both neighbouring properties, and a significant impact on the amount of light reaching No.21, and was contrary to policy.

In respect of living conditions for future occupiers, the existing property has a rear yard providing an outdoor amenity space that measures approximately 45 square metres in total. A significant proportion in a narrow strip has little amenity value, with a useable space of 33 square metres. This is below the 55 square metres referred to in the supporting text to Policy DG4 of the Local Plan. The proposed ground floor extension would only result in the loss of about 9 square metres of the more usable area beyond the existing extension. The Inspector stated the proposals would provide improved internal space for the occupants, and would include much better access to the garden, via patio doors in a lounge/dining room, which would make the remaining area more attractive and usable. He considered that these benefits outweigh the reduction in the overall amount of outdoor space.

In conclusion, the Inspector found that the proposal would provide adequate living conditions for future occupants. However, this did not outweigh the harm found with regard to the

character and appearance of the host dwelling, and the living conditions of neighbouring residential occupants.

3.3 **17/1148/OUT** – Land to the west of Clyst Road, Topsham, Exeter, Devon. APPEAL ALLOWED

The application sought Outline planning permission for up to 155 residential units and a 64-bedroom residential care home. Means of access to be determined with scale, layout, appearance and landscaping reserved for future consideration.

This application was recommended for approval by officers but was refused contrary to this recommendation by Planning Committee based concerns relating to the scheme's effect on the character and local distinctiveness of the strategic gap between Topsham and Exeter.

The Inspector identified the main issues as:

- The appeal scheme's effect on the character and local distinctiveness of the strategic gap between Topsham and Exeter;
- Its accessibility to modes of travel other than the private car: and its effect on highway safety.

To take each in turn, whilst the Inspector noted that the scheme would not satisfy the specific requirements of Local Plan policy LS1 (landscape setting), and was in conflict with that policy, he concluded that the policy is out of date in the light of the NPPF and therefore afforded this policy conflict limited weight. Consequently the critical policy underpinning the Council's case was identified as Core Strategy policy CP16. The Inspector attached no weight to policies in the Council's emerging Development Delivery DPD or Greater Exeter Strategic Plan given the lack of progress on the former, and early emerging stage of work on the latter.

The Inspector noted open and rural character of the site but also that it was affected by the presence of nearby built development. The Inspector concluded the scheme would both adversely affect the area's landscape character and result in an adverse visual impact to the setting of the built up area but that it would not result in any material coalescence of settlements. He concluded therefore it would be in conflict with policy CP16 but that the weight that could be afforded to that conflict depended on other factors in weighing up the planning balance in reaching a decision on the merits of the proposal.

In terms of accessibility the Inspector did not consider that the location of the site was so distant from facilities or public transport nodes that it would materially discourage the use of transport modes other than the private car. However, he did acknowledge the need for improvements to pedestrian linkage on Clyst Road as a fundamental requirement to be secured through an appropriate S106 agreement. The Inspector concluded on that basis the scheme was acceptable in terms of accessibility and highway safety.

In respect of the planning balance in the decision making process the Inspector highlighted the Council's absence of a 5yr supply of deliverable housing sites. Noting that measures to address this will be likely to require release of land subject to policies CP16 and LS1 he concluded that the lack of 5 yr supply reduces the weight that can be given to the identified conflict with policy CP16. He stated that in the context of the degree of housing supply shortfall the significant contribution that the appeal scheme could make to addressing this was a material consideration sufficient to outweigh the adverse effect the scheme would cause to the character and local distinctiveness of the strategic and the conflict with policy CP16. Consequently the appeal was **allowed**.

Costs

The appellant also made an application for costs in connection with the appeal against the Council's decision to refuse the application. The Inspector awarded partial costs to the appellant which will now have to be agreed between the parties.

4. New Appeals

- 4.1 **18/0814/ADV** - Unit 5 The Exebridge Centre. Cowick Street. The application sought a sign and fascias for a restaurant/takeaway.
- 4.2 **18/1605/FUL** - Atlas House, Victoria Park Road. The application sought a first floor extension for ancillary accommodation above the garage.

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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