

REPORT TO: PLANNING COMMITTEE
Date of Meeting: 16th January 2023
Report of: City Development Strategic Lead
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. Appeal Decisions

- 3.1 [22/0449/FUL](#) – **4 Lymeborne Avenue** – *Single storey rear extension and alteration.*

This application for a single-storey rear extension was refused under delegated powers following consultation with Members at Delegation Briefing for the following reasons:

- i) It would have an overbearing, overshadowing and looming impact and adversely affect the natural light and outlook enjoyed by the neighbouring property at 3 Lymeborne Avenue, which, therefore, does not allow existing or future occupiers to feel at ease within their home or garden; and,
- ii) It would relate poorly to the original dwelling's design, character, and appearance. The Inspector considered that the proposal would be of a design, massing and materials which would respect the host dwelling and its locality. It would not be a disproportionately dominant or prominent feature, being in a discreet location. It would be consistent with the various rear single-storey elements of the neighbouring properties.

The appeal was allowed.

- 3.2 [22/0320/FUL](#) – **7 Rexona Close** - *Single storey side and rear extension.*

This appeal for a single storey side and rear extension was refused because of the loss of light and outlook to the neighbouring house, and that it would fail to be subservient to the original house.

The Inspector agreed the impact on the neighbouring property, particularly loss of outlook was unacceptable.

The proposed extension to the side and rear would be considerably larger than others in the area. Owing to the angle of the property, the side of the extension would be in public view and would read as a large addition to what is a modest original dwelling. Even if the full extent of the extension could not be seen from a public vantage point, the extension would still dominate the plot size, and would therefore not be subservient to the original dwelling.

The appeal was dismissed.

3.3 [21/1796/FUL](#) – **1A Rosebarn Avenue** - *new dwelling with associated access and parking.*

This application for a new detached dwelling was refused because:

- i) by virtue of the siting, design, and materials, the proposed dwelling would present a poorly designed form of development, that would be an overdevelopment of the site, and would not sit comfortably within the established character of the local area;
- ii) by virtue of fenestration design and position, and internal layout, the first floor would have a limited outlook, which would harm the living conditions and standards of residential amenity for future occupiers of the proposed dwelling; and
- iii) by virtue of position, height, massing and design, the proposed dwelling would have an overbearing impact on 1 Rosebarn Avenue and 170 Pennsylvania Rd, and a loss of outlook for 1 Rosebarn Avenue, which would be detrimental to the residential amenity, and to the ability of existing and future occupiers of those properties, to feel at ease within their home and garden.

The inspector concluded the proposal did not harm the character and appearance of the area; the fenestration design would not be contrived and would provide a satisfactory living environment; and given its central position in the plot and use of obscured glazing, would not harm neighbours amenity.

The appeal was approved. The application for costs was dismissed.

3.4 [21/0223/OUT](#) – **Land At Home Farm Between Church Hill And Park Lane** - *Outline planning application for the construction of up to 61 dwellings and associated infrastructure.*

Following a Hearing on 25 October 2022, the appeal was dismissed.

The application was refused by the Council, due to the conflict of the proposed development with Policy CP16 and saved Policy LS1 for harming the character and local distinctiveness of the hills to the north of the city, and the landscape setting of the city. The site is the field to the north of the Home Farm development in Pinhoe, which was allowed at appeal in 2014. It forms the upper part of the slope and is visible in the wider area. Whilst there is already some historic development along the Beacon Hill ridgeline, the proposed development would have effectively infilled and urbanised this part of the ridge. The developer argued that the proposal was a 'rounding off' of the edge and would be mitigated by planting over time, and the context was already urbanised.

Having viewed the site from all the viewpoints in the Landscape and Visual Assessments of the developer and Council, as well as those suggested by interested parties, the Inspector considered that 'the development would have a detrimental effect on the landscape setting of the city through its urbanisation and the resultant effect this would have on views, particularly towards the site, which despite recent development, have not been affected to a great extent'.

The Inspector went on to state that the previous appeal decision/judgement for Home Farm was a material consideration and whilst the built environment has changed since then the importance of the upper slopes to the setting of the city has not diminished. He also noted the strong rural character and high scenic quality of the area, which provides an attractive setting to the city. He considered that the proposed development would have a significant visual impact, particularly in views where it may punctuate the ridgeline.

As landscaping was a reserved matter, there was no certainty that tree planting would soften the appearance of the development. The Inspector did not agree in any case that a planting scheme, which would take some 15 years to mature, would provide suitable or

sufficient mitigation to counteract the harm of residential development of the site. Additionally, he was not convinced that future reserved matters submissions in accordance with the submitted parameter plan and limiting the height of the dwellings would ensure the acceptability of the proposal.

He concluded that the proposed development would create very significant harm to the character and appearance of the site and the surrounding area, with particular regard to the landscape setting of the city, and therefore the application conflicted with the character and appearance aims of Policies CP16 and LS1, as well as paragraphs 130 and 174 of the NPPF. Whilst he acknowledged that the Council does not currently have a five year land supply of deliverable housing sites being within the range of approximately 4.0 to 4.1 years, and the 'tilted balance' within the presumption in favour of sustainable development in the NPPF was therefore engaged, in this instance the significant visual harm of the proposal 'significantly and demonstrably' outweighed the benefits of delivering new market and affordable homes on the site, which themselves were afforded significant weight in the planning balance, and the significant economic benefits accruing from the construction and operational phases. Therefore, the proposal was contrary to the development plan and there were no material considerations to outweigh this conflict.

Whilst the application was also refused due to the absence of a s106 legal agreement to secure 35% affordable housing and other infrastructure, the Inspector dismissed this reason following the submission of a Unilateral Undertaking during the appeal securing the necessary infrastructure.

4. New Appeals

- 4.1 [21/1028/FUL](#) – **6 Matford Road** – *Demolition of existing bungalow and garage, and construction of two storey dwelling.*
- 4.2 [21/1122/FUL](#) – **32 Okehampton Street** – *Redevelopment of site including construction of 8 dwellings (Class C3), access road and landscaping.*
- 4.3 [22/0449/FUL](#) – **4 Lymeborne Avenue** – *Single storey rear extension and alteration.*
- 4.4 [22/0153/FUL](#) - **Land to the South of 15 The Fairway** – *New dwelling.*

Ian Collinson
Director of 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 are available for inspection from: City Development, Civic Centre, Paris Street, Exeter

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