

**COMMITTEE DATE:** 27 April 2020

<b><u>APPLICATION NO</u></b>	19/1767/FUL
<b><u>APPLICANT</u></b>	Mr and Mrs Wyn Davies
<b><u>LOCATION</u></b>	Quay Gardens, Monmouth Avenue, Topsham, Exeter.
<b><u>PROPOSAL</u></b>	Construction of a detached 2 bedroom house with an integral garage.
<b><u>REGISTRATION DATE</u></b>	17 December 2019
<b><u>RELATED DOCUMENTS</u></b>	<a href="http://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=summary&amp;keyVal=Q2NXTAHBMXK00">http://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=summary&amp;keyVal=Q2NXTAHBMXK00</a>

### **HISTORY OF SITE**

Quay Garden House was granted permission in 2000 (ref. 99/1019/LBC & 99/1018/FUL) for extensions, construction of dormers and internal alterations. Further internal alterations received permission under references 15/1292/LBC and 16/0455/LBC.

The summer house which currently occupies the site of the proposed dwelling, on the north east boundary, was permitted under application ref 11/0159/FUL.

In 2015, planning permission was granted on appeal for the separation of the barn annex from Quay Gardens to create two separate dwellings, with associated garden and parking (ref. 15/0377/FUL & 15/0378/LBC).

In 2019, permission was refused for the construction of a detached 3 bedroom house, with an integral garage, located within the northern half of the site (ref. 19/1102/FUL). The accommodation is proposed to be split over two storeys. Permission was refused as the proposal was considered to be visually incongruous and detrimental to the character of the area; as a result of its height, scale, massing and form result in an overbearing impact that would harm to the setting of the Grade II listed Quay Gardens and Quay Gardens Barn; and the design and scale of the proposed development would neither preserve or enhance the character and appearance of the Topsham Conservation Area.

### **DESCRIPTION OF SITE/PROPOSAL**

The site comprises of two grade II listed properties located within the Topsham Conservation Area. The properties are situated within large well-landscaped grounds, and have a high degree of privacy.

The two dwellings, Quay Gardens and Quay Gardens Barn are located to the southwest corner of the site and are currently under the same ownership. The land to the north of the properties comprises a large garden serving the dwellings and a single storey art studio to the northwest boundary. To the northern boundary is a steep embankment which leads down onto Holman Way.

Quay Gardens is a two storey detached dwelling which retains its C17th façade.

Quay Gardens Barn is a C17th barn constructed of cob, brick and stone with slate roof. It is a separately listed Grade II Listed Building and was granted permission as a separate dwelling as a result of an upheld appeal, ref. 15/0377/FUL. A secondary point of access to Quay Gardens is gained via a pedestrian right of way across the garden of the neighbouring property No.4 Amity Place.

This application seeks permission for the construction of a detached two bedroom property. The main living areas of the property are contained within a two storey section, with two ensuite bedrooms on the ground floor and an open plan living space at the first floor with balcony to the southwest elevation and a sedum roof. Attached to the property is a single storey double garage with mono pitched roof. The property is proposed to be finished in a mix of timber cladding, stone and brick, with a section of vertical planting on the southeast elevation. The property will also feature large sections of glazing to the southwest elevation. To the south west of the property is a private amenity space for this property, bounded by a new hedge.

The property will utilise the existing access lane from Monmouth Avenue, which the site has right of access over.

### **SUPPORTING INFORMATION SUPPLIED BY THE APPLICANT**

- Design and access statement
- Archaeology and Heritage statement
- Arboricultural statement (including tree protection plan)
  - The first assessment was superseded, with a revised assessment to include the retention of trees to the northern boundary of the site.

### **REPRESENTATIONS**

**1 letter of support.** The letter of support considered that the proposal was suitable for the site and was considered to enhance the area.

**1 letter of representation.** The letter of representation considered that building on this land is not appropriate and should be retained for use for growing crops. It was noted that there was disagreement with the historical impact assessment with regards the impact on the historic buildings.

**12 letter of objection,** including the Topsham Society. The comments raised in the objections are summarised below -:

- Detrimental impact on the wider conservation area;
- Proposal does not address the detrimental impact on the heritage assets;
- Due to the elevated position next to Holman Way, the dwelling would be a dominant feature within the conservation area;
- Inappropriate access;
- Detrimental impact of increased traffic;
- Proximity of property to eastern boundary and loss of laurel hedge;
- Felling of mature trees;
- Impact during construction;

- Impact of the repositioning of the summer house;
- Design out of keeping with the properties within the area;
- Overdevelopment of the site.

## **CONSULTATIONS**

**The Highways** (Devon County Council) officer raises no objection in principle and the development could proceed in accordance with the County's standing advice.

**The Environmental Health** (Exeter City Council) officer has recommended a condition regarding the construction and demolition hours in the interest of residential amenity. An informative was also requested regarding controlling emissions and health impacts from wood burners.

## **PLANNING POLICIES/POLICY GUIDANCE**

### **National Planning Policy Framework (2019)**

- 12. Achieving well designed places
- 16. Conserving and enhancing the historic environment

### **Section 72 of Planning (Listed Building and Conservation Area) 1990**

### **Exeter Local Development Framework Core Strategy (2012)**

#### **Objective 8**

*'Protect and enhance the city's unique historic character and townscape, its archaeological heritage, its natural setting that is provided by valley parks and the hills to the north and west, and its biodiversity and geological assets'*

#### **Objective 9**

*'Create and reinforce local distinctiveness and raise the quality of urban living through excellence in design.'*

CP17 Design and local distinctiveness

### **Exeter Local Plan First Review 1995-2011**

- AP1 Design and location of development
  - AP2 Sequential approach
  - H1 Housing land search sequence
  - H2 Housing location priorities
  - T1 Hierarchy of modes of transport
  - T2 Accessibility criteria
  - T3 Encouraging sustainable use of transport
  - T10 Car parking standards
  - C1 Conservation areas
  - C5 Archaeology
  - C2 Listed buildings
  - DG1 Objectives of urban design
- 'Development should:*

*(f) be of a height which is appropriate to the surrounding townscape and ensure that the height of constituent parts of buildings relate well to adjoining buildings, spaces and to human scale;*

*(g) ensure that the volume and shape (the massing) of structures relates well to the character and appearance of the adjoining buildings and the surrounding townscape;*

*(h) ensure that all designs promote local distinctiveness and contribute positively to the visual richness and amenity of the townscape.'*

DG2 Energy conservation

DG4 Residential layout and amenity

### **Exeter City Council Development Delivery DPD (Publication Version) 2015**

This document represents a material consideration but has not been adopted and does not form part of the management plan

DD13 Residential amenity

DD20 Sustainable movement

DD21 Parking

DD25 Design principles

DD28 Heritage assets

### **Exeter City Council Supplementary Planning Document**

Residential Design Guide SPD 2010

### **Conservation area appraisal management plans**

Topsham 2009

## **OBSERVATIONS**

As with the previous application for the site (19/1102/FUL), the principal issues regarding this application are; the principle of development; scale and massing; impact on the setting of the heritage assets; access and trees.

### **Principle of development**

In accordance with Objectives 8 and 9, Policy CP17 of the Core Strategy and Policies AP1 and H1 of the Exeter Local Plan First Review, development should be designed and located to raise the quality of the urban and natural environment, with housing development located towards previously developed land, conversion and infill within the urban area. Residential development should be at the highest achievable density without detriment to local amenity, the quality of the local environment and the safety of local roads.

In line with these policies, the introduction of an additional dwelling at this site is considered potentially acceptable. Infill development represents an important contribution to housing supply within the city. Due to the property's location, the scale, design and the impact on both the setting of the listed buildings and the Topsham Conservation Area, require specific assessment.

### Scale, massing and impact on heritage assets

Local Planning Authorities have a duty within Section 72 of Planning (Listed Building and Conservation Area) 1990 which requires special attention to the desirability of preserving or enhancing the character or appearance of listed buildings and conservation areas. Furthermore, in line with the NPPF (specifically paras. 193-196), it must be assessed whether the proposal will cause harm to the heritage asset, including its setting and the ability to appreciate the significance of that asset, and whether that harm would be significantly offset by any public benefit accruing from the proposal. Whilst the location of the proposed dwelling is such that it is not particularly visible from the public highway, the lack of external public views into the development site and into the private garden of Quay Gardens, is not a factor when assessing the setting of a listed building and the degree of harm, and acceptability thereof, that a development would cause. The design of the proposed development therefore needs careful consideration.

The introduction of contemporary architectural solutions rather than copies of the historic form is encouraged, and creates a clear contrast between the old and new rather than pastiche designs. Design should have clear sensitivity to its context, which in this case includes the impact on the setting of the listed buildings and the Topsham Conservation Area.

The existing layout of the site, with the main house to the southwest boundary, the barn beyond to the west boundary and the open spacious garden to the north is such that the main house remains the dominant feature within the site. Furthermore, the main house holds a prominent position in relation to the access lane and as such these are important to the setting of the listed house and barn. Additional development, in the form of the summer house, has been introduced to the site without harm to the setting. It is considered that this is a result of the clear subservience of the building, as a result of its single storey form, the introduction of softer materials through the wood and the set back from the entrance. Following the site visit, it was concluded that the proposed footprint for the dwelling was of an acceptable size in relation to the plot. In the previous application it was argued that the massing of the two storey dwelling and flat roof was visually incongruous and had an overbearing appearance on the main dwelling.

To address this impact this application has removed the two storey section of the build over the garage, keeping this to a single storey level. It is considered that this alteration significantly reduces the massing of the proposed dwelling and reduces the competition and overbearing impact on the main dwelling, allowing Quay Gardens to remain the dominant feature within the site.

In addition the second storey section over the garage was considered to have an overbearing impact on the adjoining property, Oxford Orchards, by reducing this section to a single storey, this impact is ameliorated.

The introduction of planting to the two storey section of the south east elevation, is considered to soften the appearance of this elevation and appropriate to the setting. As a result of these changes it is considered that the impact on the setting of the listed building, particularly the overbearing impact on entrance to the site has been significantly reduced.

Concern has been raised regarding the height of the proposed dwelling in relation to the wider conservation area, particularly the historic quay area as a result of its elevated position. It is considered that as a result of the vegetation screening, the existing buildings and the distance

between the proposed dwelling and the historic quay, views of the proposed dwelling from this position would be limited and therefore the level of harm would be limited.

It is considered the modifications made to the proposed dwelling following the previous refusal (19/1102/FUL) regarding the scale and massing in relation to the heritage assets has been addressed within this application and therefore is compliant with Objective 8, Policy CP17 of the Core Strategy, Policies C1 and C2 of the Exeter Plan and Policy DD28 of the Development Delivery DPD.

It is considered that there is the potential for buried remains at the site, as noted in the applicant's heritage statement. This is due to the favourable topographic location of this site (on SW facing level land overlooking the estuary) for prehistoric and later remains, and that it is located directly to the rear of the main medieval and later quay area of Topsham, within the same property as two buildings of 17C origin. To mitigate any potential impacts, a condition is recommended to secure a programme of archaeological work.

### Trees and landscaping

The Topsham Conservation Area Appraisal raises a number of issues that are considered to negatively impact the conservation area, which includes the retention and care of mature trees. Development should be designed to ensure trees flourish and mature, with development arranged to a good spatial relationship between trees and development, to allow trees and planting to be retained. This application initially proposed to remove two trees on the northern boundary to facilitate this development, the removal of a tree within the centre of the site and two apple trees to the southwest corner of the site.

Following discussion with the Council's Arboricultural Officer, a revised arboricultural assessment and tree protection plan were submitted to ensure that the two trees on the northern boundary were retained. In addition the tree to be removed in the centre of the site (T3) will be replaced by appropriate native trees. With regards the remaining trees to be removed (two apple trees and one cryptomeria), although it is preferable where possible to retain and protect trees of good arboricultural and amenity value, where the value is lower the council supports the planting of native trees, as proposed as part of this application. A condition will be applied to any consent granted to ensure compliance with the arboricultural assessment and the provision of a detailed landscaping scheme will be conditioned to ensure the trees are replaced with appropriate species.

The initial scheme proposed the installation of a standard timber fence to create the boundary for the new dwelling. It was considered that this was a relatively harsh boundary treatment for its setting, it was negotiated for this to be replaced with a softer boundary in the form of a new hedge line, more appropriate to its setting. In addition the laurel hedge, currently present on the eastern boundary is also considered an important element of soft landscaping and it has therefore been negotiated that this be retained. This laurel hedge is considered important screening to the site, and the loss of this hedge was of concern to an objector. To ensure appropriate landscaping and the retention of the soft landscaping on the eastern boundary, any consent granted will require the submission of a detailed landscaping scheme, including a planting scheme.

## Materials

In line with Policy DG1 (i) of the Local Plan, developers are encouraged to use materials which are traditionally used within the area in conjunction with glass, timber and steel to create contemporary solutions appropriate to its setting. It is considered that the proposed mix of materials, including timber cladding, stone and brick is acceptable for its setting. A condition could be attached to any consent granted to ensure a high quality finish and the maintenance of the planting on the southeast elevation.

## Access

Objectors, as with the previous application (19/1102/FUL) have raised concerns regarding the increased pressure on the access lane as a result of the additional dwelling. The applicant has confirmed right of access along the private lane off Monmouth Avenue. In line with Devon County Council's standing advice for determination of planning applications, the existing private access drive achieves the minimum width of 3 metres and is widened at the bends as appropriate. As the access lane exceeds 25 metres in length (approximately 98.4 metres), it is considered that there is adequate provision for passing places within the lane. There is also sufficient space within the site to for the turning of vehicles.

Although the visibility of the existing entrance/exit point onto Monmouth Avenue, as an existing arrangement it is not considered that this constitutes a reason for refusal. The secondary pedestrian access via the right of way over the garden of 4 Amity Place is proposed to be retained for the use of the occupiers of Quay Gardens Barn as per the existing arrangement and will not be opened up for use for Quay Gardens or the new dwelling.

## Overlooking and loss of privacy to adjoining properties

A minimum distance of 22 metres is recommended to prevent overlooking and feelings of being hemmed in. The properties to the west are located approximately 24 metres from the proposed dwelling and the distance to the garden boundary to the north is approximately 27 metres, and is therefore considered compliant with Policy DG4 of the Local Plan. The distance to neighbouring properties is also such that it loss of light and shadowing would not be a significant issue.

## Habitats Mitigation

This development has been screened in respect of the need for an Appropriate Assessment (AA) and given the nature and scale of the development it has been concluded that an AA is required. This AA has been carried out, and concludes that the development could have an impact, primarily arising from the recreational activity of future occupants of the development. If approved, this impact must be mitigated in line with the South-east Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council, which is being funded through a proportion of the CIL collected in respect of the development being allocated to funding the mitigation strategy.

## Conclusion

The principle of development, within an established residential area, is considered to be acceptable. It is considered that in comparison to the previously refused application (19/1102/FUL) there has been a significant reduction in the scale and massing of the proposed

development to reduce the impact of the proposed development on the setting of the Grade II listed Quay Gardens and Quay Gardens Barn. In addition there has been effective engagement to ensure the protection of the mature trees, important to the conservation area and to achieve greater soft landscaping. As such the proposal is considered to be compliant with Objectives 8 and 9 and Policy CP17 of the Exeter Local Development Framework Core Strategy and Policies C1, C2, DG1 (f), (g), (h) of the Exeter Local Plan First Review and Policies DD25, DD28 of the Development Delivery DPD. Officer recommendation is therefore for approval.

### **DELEGATION BRIEFING – 7 APRIL 2020**

Members were presented with the application, the application site is located within the Topsham Conservation Area and within the curtilage of the listed buildings, Quay Garden and Quay Gardens Barn. Quay Gardens Barn was granted permission on appeal for use as a separate dwelling. In 2019, permission was refused for a detached 3 bedroom house with integrated garage. Permission was refused due to its incongruous impact on the listed buildings as a result of its scale massing and form.

It was confirmed that 12 letters of objection, 1 letter of support and 1 letter of representation had been received. Objectors raised concerns regarding the impact to the listed building, the impact on the conservation area, inappropriate design and the over development at the location. As well as the loss of mature trees and inappropriate access.

This application has removed the two storey section of the build over the garage which featured in the previous application, keeping this to a single storey level. It is considered that this alteration significantly reduces the massing of the proposed dwelling and reduces the competition and overbearing impact on the main dwelling, allowing Quay Gardens to remain the dominant feature within the site. The property occupies the same footprint as the previously refused application.

It was confirmed that the removal of the trees adjoining Holman Way had been revised and would now be retained. The application had also been revised to alter the property boundary from a timber fence to a hedge, the introduction of planting to the south east elevation wall and retention of the laurel hedge on the eastern boundary. The officer considered the application to be much improved and recommended approval with conditions.

Members commented on the application and considered taking the application to the Planning Committee for more input from Members. Members decided to refer the application to the Planning Committee.

### **RECOMMENDATION**

**APPROVE** with conditions

#### **CONDITIONS**

1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To ensure compliance with sections 91 and 92 of the Town and Country Planning Act 1990.



2) The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 17 December 2019 (including dwg. nos. 19/003/31 Rev A; 19/003/32 Rev A; 19/003/33 Rev A; 19/003/35 Rev A; 19/003/36 Rev A received on 05 March 2020; 19/003/34 Rev B Received on 01 April 2020; 19/003/30 Rev B Received on 08 April 2020) as modified by other conditions of this consent.

Reason: In order to ensure compliance with the approved drawings.

3) No site machinery or plant shall be operated, no process shall be carried out and no demolition or construction related deliveries received or dispatched from the site except between the hours of 8 am to 6pm Monday to Friday, 8am to 1pm Saturday and at no time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby.

4) Samples of the materials it is intended to use externally in the construction of the development (including the natural stone cladding; cedar cladding; bricks and roof membrane) shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.

Reason: To ensure that the materials conform with the visual amenity requirements of the area.

5) Pre-commencement condition: No materials shall be brought onto the site or any development commenced, until the developer has erected tree protective fencing around all trees or shrubs to be retained, in accordance with a plan that shall previously have been submitted to and approved in writing by the Local Planning Authority. This plan shall be produced in accordance with BS 5837:2012 - Trees in Relation to Design, demolition and construction. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development the subject of this permission is completed. The level of the land within the fenced areas shall not be altered without the prior written consent of the Local Planning Authority. No materials shall be stored within the fenced area, nor shall trenches for service runs or any other excavations take place within the fenced area except by written permission of the Local Planning Authority. Where such permission is granted, soil shall be removed manually, without powered equipment.

Reason for pre-commencement condition - To ensure the protection of the trees during the carrying out of the development. This information is required before development commences to protect trees during all stages of the construction process.

6) A detailed scheme for landscaping, including the planting of trees and or shrubs, the planting to the southeast elevation, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority and no dwelling or building shall be occupied until the Local Planning Authority have approved a scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required together with the timing of the implementation of the scheme. The landscaping shall thereafter be implemented in accordance with the approved scheme in accordance with the agreed programme. Any trees or plants which within a period of 5 years from the completion of

the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To safeguard the rights of control by the Local Planning Authority in these respects and in the interests of amenity.

7) Pre commencement condition: No development related works shall take place within the site until a written scheme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include on-site work, and off site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason for pre commencement condition: To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development. This information is required before development commences to ensure that historic remains are not damaged during the construction process

## INFORMATIVES

1) In accordance with Paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and pro-active way with the Applicant and has negotiated amendments to the application to enable the grant of planning permission.

2) In accordance with Chapters 1 and 2 of the Conservation of Habitats and Species Regulations 2017, this development has been screened in respect of the need for an Appropriate Assessment (AA). Given the nature of the development, it has been concluded that an AA is required in relation to potential impact on the relevant Special Protection Areas (SPA), the Exe Estuary and East Devon Pebblebed Heaths, which are designated European sites. This AA has been carried out and concludes that the development is such that it could have an impact primarily associated with recreational activity of future occupants of the development. This impact will be mitigated in line with the South East Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council (with particular reference to Table 26), which is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of the development being allocated to fund the mitigation strategy. Or, if the development is not liable to pay CIL, to pay the appropriate habitats mitigation contribution through another mechanism (this is likely to be either an undertaking in accordance with s111 of the Local Government Act 1972 or a Unilateral Undertaking).

3) Advice on controlling the emissions from and health impacts of wood burning is available from [https://uk-air.defra.gov.uk/assets/documents/reports/cat09/1901291307\\_Ready\\_to\\_Burn\\_Web.pdf](https://uk-air.defra.gov.uk/assets/documents/reports/cat09/1901291307_Ready_to_Burn_Web.pdf). It is recommended that all new stoves meet the EcoDesign Ready standard. In addition, careful design of the flue may be required in order to prevent the appliance causing a nuisance by fume or odours. For further advice, please contact the Environmental Protection Unit on 01392 265148.

4) The Local Planning Authority considers that this development will be CIL (Community Infrastructure Levy) liable. Payment will become due following commencement of development. Accordingly your attention is drawn to the need to complete and submit an 'Assumption of Liability' notice to the Local Planning Authority as soon as possible. A copy is available on the Exeter City Council website.

It is also drawn to your attention that where a chargeable development is commenced before the Local Authority has received a valid commencement notice (ie where pre-commencement conditions have not been discharged) the Local Authority may impose a surcharge, and the ability to claim any form of relief from the payment of the Levy will be foregone. You must apply for any relief and receive confirmation from the Council before commencing development. For further information please see [www.exeter.gov.uk/cil](http://www.exeter.gov.uk/cil).