

**REPORT TO:** PLANNING COMMITTEE  
**Date of Meeting:** 16 November 2020  
**Report of:** Director  
**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 [18/0580/FUL](#) – **Land and Buildings at Pocombe Grand House, Pocombe Bridge.** This was an application for an extension and alterations to existing accommodation to create 1no. additional dwelling unit and construction of 2no. new build dwelling houses, landscaping and associated works.

The application site is located on the western edge of the local authority area, immediately alongside the Alphin Brook (within Flood Zone 3). The site is also within the Alphington Whitestone Valley Park and Landscape Setting Area designation. The Council refused planning permission for this residential scheme for three reasons relating to flood risk, design and highway safety.

The primary reason why the Council refused consent related to the site's location in Flood Zone 3. Paragraph 158 of the National Planning Policy Framework (NPPF) seeks to steer new development to areas with the lowest risk of flooding. It states that "development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding." The Council argued that its Strategic Housing Land Availability Assessment (SHLAA) demonstrated that there were almost 100 alternative sites in the Exeter district that would be sequentially preferable to this site for residential development. The Inspector accepted that this was the case, noting in particular that a number of the identified sites would be capable of accommodating a modest scheme such as this. He therefore agreed with the Council that the Government's Sequential Test had not been passed and as a result the scheme was not acceptable. He also noted that Paragraph 11 of the NPPF, which includes the tilted balance in favour of proposals where the Council cannot demonstrate a five year housing supply, did not apply in this case owing to the location being at high risk of flooding.

In addition, the Inspector agreed with the Council that the development would present a cramped and unsympathetic form of development that would be detrimental to the character of the area. He considered that the additional dwellings would intensify the level of development in the locality and introduce a more urban character to an area that was currently semi-rural. He continued that "due to the need to raise the ground floor levels to address the flood risk issue, this would result in an uncomfortable juxtaposition between the proposed and existing buildings, resulting in the creation of disjointed elevations when viewed together. As a result, the proposed new dwellings would appear as a discordant and incongruous form of development."

In respect of highway safety, whilst nothing that visibility was slightly constrained by a boundary wall, he did not consider that the marginally increased use of the junction between an existing private driveway and Pocombe Bridge/Hill would lead to unacceptable impacts "In any event," he continued, "a suitably worded condition could be added to any planning permission, requiring this boundary wall to be reduced in height to ensure compliance with visibility standards."

In summary, for the reasons given above, the appeal has been dismissed.

3.2 [19/1676/FUL](#) – **St Andrews Yard, Willeys Avenue.** This application was for demolition of existing single storey business premises and construction of 9no residential apartments along with on-site parking and associated landscaping.

An Inspector allowed this appeal granting planning permission, subject to conditions, for the construction of 9 no residential apartments along with onsite parking and associated landscaping.

The Inspector noted that the surrounding land use is predominately residential, mainly in the form of rows of brick built, two-storey terrace properties. However within the wider area, there are a number of more recent developments where the overall height of parts of the buildings are taller than the surrounding terraces. He considered that whilst the proposal would considerably increase the amount of built form on the site, it would not be significantly higher than the surrounding properties. It would therefore not represent a visually prominent or overly dominant form of development and, as a result, would not have a significant adverse effect upon the street scene.

In respect of the design approach he commented that the visual appearance of development would be sympathetic to, and in keeping with the existing design, layout and density that exists in the surrounding area. He concluded that the proposed development would not significantly affect the character and appearance of the area and, in this respect, the proposal would be in accordance with objective 9 and Policy CP17 of the Exeter Core Policies DG1 (b, g, and h) of the Local Plan First Review and the Residential Design Guide SPD and Paragraphs 127 and 130 of the NPPF.

The Inspector acknowledged that although concerns were raised by local residents in relation to highway issues, he noted that the County's Highway officer raised no objection and concluded there is no evidence that highway safety would be compromised. Commenting on the potential for noise during construction and the effect of construction vehicles on surrounding roads he stated that this would be temporary and could be mitigated by a Construction Method Statement.

In respect of comments with regards to the impact of the proposal upon the living conditions of surrounding residents. Whilst there would result in some impact, due to the size and orientation of the gardens in relation to the proposal, it is not considered that this would give rise to significant overbearing or loss of privacy effects to warrant the withholding of planning permission.

The Inspectorate consider Unilateral Undertaking in respect of education financial contribution was necessary, related directly to the development and fairly related in scale and kind.

**Costs application:** The appellant's claim for costs was dismissed by the Inspector. He commented that costs may only be awarded against a party who has behaved unreasonably. A local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. In refusing the application, Council Members considered that the proposed development would cause harm to the character and appearance of the area.

He concluded that the Planning Committee was justified that that it had sufficient evidence before them to indicate that they could reasonably reach a different decision to that being recommended to them by their officers. Whilst he came to different view decision on the appeal application, he was satisfied that the Council has shown that it was able to substantiate its reason for refusal. He did not agree that the Council has acted unreasonably in this case.

3.3 [19/0634/LBC](#) and [19/0635/LBC](#) – **8 Clifton Hill, Exeter.** Two applications: One for removal of pier between internal doors and adaptation to double door opening ( [19/0634/LBC](#)), and the other for: Removal of one window and portion of wall ( [19/0635/LBC](#)).

Two planning appeals have been dismissed for listed building consents at 8 Clifton Hill. The first appeal concerned the removal of a pier between internal doors separating the hallway and study, to create a double door opening. The second appeal concerned the removal of an original window and section of wall on the rear elevation of the property.

Located within the Belmont Conservation Area, 8 Clifton Hill forms part of a group listing of grade II listed mid-19<sup>th</sup> century villas comprised of a mix of flats and dwellings. The main issues in both appeals are whether the proposal works to preserve the grade II listed building, or any features of special or architectural interest which it possesses and whether the development preserves or enhances the Belmont Conservation Area.

With regards the first appeal, the inspector noted that much of the internal partition between the hall and the utility had been removed by previous owners. It was also acknowledged that the proposal would create a better visual connection between the spaces. However, the proposal was considered to entail the loss of some original wall fabric to the hallway, eroding the historic fabric and therefore the historic fabric of the building. The harm was regarded as less than substantial. However, in light of no evidence to demonstrate the works would be necessary to secure the continued use of the building or any other public benefits to outweigh the harm identified, the development would therefore fail to preserve the special historic interest of the appeal building.

Regarding the second appeal, the original window, a small sliding sash, appeared to be in good condition and the wall below it, original fabric. The development would entail the loss of some important historic fabric of the building, particularly the sash. This was considered to result in an unnecessary loss and detracted from the special architectural and historic interest of the building. As with the first appeal, there was no evidence to demonstrate the works would be necessary to secure the continued use of the building or any other public benefits to outweigh the harm identified. It was therefore concluded that the development would fail to preserve the special historic interest of the appeal building.

For the reasons given above, the appeal was dismissed.

3.4 [19/0875/FUL](#) - **328 Pinhoe Road**. This application was for a single storey rear extension to provide 6 bedrooms to residential care home.

The site is located just off Pinhoe Road roughly equidistant between the local centres of Polsloe Bridge and Whipton. It has one point of access via its main frontage on Whipton Village Road, is bound by residential properties on western and northern boundaries, and flanked by The Red House Hotel along the eastern boundary. The property has undergone extensive change over recent decades to support the care home operation (C2 Use Class), including garage and loft conversions, large area of hardstanding for parking at the front of the site and multiple extensions towards the rear.

The proposal sought full planning permission for a 6 bedroom rear extension to be constructed in the shared outdoor amenity space in the far north-western portion of the site, on land which originally formed part of the rear garden of 326 Pinhoe Road. The structure was proposed to be built close to the boundaries and infill most of the open space in this part of the site.

The Council refused planning permission on the basis that the proposal constitutes overdevelopment of an inadequately proportioned site, it would not provide new occupants with a sufficient level of amenity with particular reference to outlook and privacy, it would harm the level of amenity for existing occupiers of the care home, and would also be unacceptably harmful to neighbouring residential amenity as well.

The inspector considered the key issues in this case to be the effects of the proposed development:

- (1) upon the living conditions of occupants of neighbouring properties;
- (2) upon the living conditions of the occupants of Aaron Court; and
- (3) upon the character and appearance of the area.

The inspector acknowledged that the care home is currently operating at full capacity and calculates the proposed scheme to entail a significant proportionate increase in accommodation on the site of 29%, rising from 21 bedrooms as existing to a total of 27 proposed. Due to a number of factors including the long established care home usage of the site since 1986 the inspector considered that additional noise and disturbance associated with C2 use has to an extent become part of the established character of the area. The detached nature of the property, non-C3 uses nearby and heavy use of Pinhoe Road all influence the existing baseline noise profile within the site

and the proposal was assessed against this benchmark. Notwithstanding these mitigating factors the inspector concluded that the proposal entails a “significant additional intensity of use” that would result in clear potential for additional noise and disturbance, which would further exacerbate the adverse impacts upon living conditions and quality of life for occupants of 324 and 326 Pinhoe Road.

With regard to the living conditions of occupants in Aaron Court the inspector noted that design standards expected for new dwellings are not necessarily consistent or equal to those required for new care home accommodation. Depending on the nature of care provided and specific needs of residents a lower level of outlook for example may be acceptable. Despite such distinction in requirements the importance and policy relevance of achieving well-designed and suitable living accommodation in general was clearly highlighted. It was considered that the proposal would significantly reduce the amount of open space for all residents of the facility and the development would not provide new occupants with adequate levels of outlook or natural light. By virtue of windows facing directly into the rear boundary fence it was agreed that outlook from proposed bedrooms 1 and 2 would be severely lacking and rather meaningless. Given existing boundary features and the proposed extension being single storey the overall impact upon privacy was considered to be acceptable in this instance. The inspector emphasised that the onus is on the applicant to substantiate their case and in this particular instance no evidence was provided to demonstrate that the proposed scheme provides appropriate levels of outlook to meet the needs of occupants.

Turning to the impact of the proposal upon the character and appearance of the area it was noted that despite being visible from a number of private vantage points in nearby properties the extension would not result in an adverse public visual impact. It was advised that there comes a point where the accumulative visual impact from private vantage points becomes a matter of public interest. Although the increased footprint and plot ratio (percentage of land covered by building structures) to 46% of the proposal would be uncharacteristic of the area the design of the extension was thought to be intrinsic and well related to the character and appearance of the existing building. This neutral finding did not weigh in favour of the appeal but the inspector concluded that the impact upon the character and appearance of the area was acceptable in this instance. The adverse visual impact from private vantage points could be mitigated by conditions to protect or replace existing boundary features.

According to this assessment the appeal was dismissed.

3.5 [19/0899/FUL](#) – **14 and 15 St James Road, Exeter**. This application was for the creation of two dwellings.

The site is located within the Duryard and St James Ward of the city and lies directly opposite the western corner of the St James Park Football Stadium. It is also located within the St Sidwell's Conservation Area. This front aspect currently provides the only means of access to the site whereas the proposed scheme comprised a new opening and separate site access cut into the large retaining wall at a lower level on Well Street. The two new dwellings were proposed to be facing towards the car garage on the opposing side of the street (no.36-37).

The Council refused the application on the grounds that the proposal constitutes overdevelopment of inappropriate and poor design, it would bring about low quality living conditions to the detriment of current and future occupants, and could also result in the potential loss or harm to a TPO tree.

The inspector considered the key issues in this case to be:

- (4) The effect of the proposed development upon the character and appearance of the St Sidwell's Conservation Area and upon the existing tree on the site; and,
- (5) The effect of the proposal upon the living conditions of surrounding and future residents, with a particular regard to the provision of amenity space.

The inspector agreed with the council that the proposal constituted overdevelopment of an inadequately proportioned site and that this would be detrimental to the established pattern of development in the area. It was noted that the significance of the conservation area is derived from the identifiable building pattern as well as the historic fabric and vernacular details of the buildings

within it. Although the adverse visual impact of the proposal on the character and appearance of the St Sidwell's Conservation Area was considered to amount to 'less than substantial harm' the inspector concluded that the proposed design would be visually obtrusive and out of keeping with existing single storey garages and outbuilding structures on this side of Well Street, and in more broad terms be at odds with the character and appearance of the St Sidwell's Conservation Area.

The proposed outdoor amenity space was considered to have an awkward relationship with both existing and proposed buildings, and would be uncomfortably overlooked and overshadowed. On this basis alone the inspector concluded that the proposed development would not provide future occupiers with a sufficient level of overall amenity.

It was observed that the existing TPO tree would overshadow the outdoor amenity area as was proposed and its use could lead to increased pressure to reduce or remove the tree in future, which would be undesirable in planning terms and further detrimental to the character and appearance of the conservation area.

For these reasons the inspector concluded that the appeal should be dismissed.

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

##### **4.1 [19/1303/OUT](#) – Land off Woodwater Lane, Adjacent to Ludwell Rise**

Outline planning application for 2 dwellings including access, layout and landscaping (scale and appearance reserved for future consideration).

##### **4.2 [20/0057/FUL](#) - 22 Bagshot Avenue**

Proposed rear and side extension, with construction of basement and internal alterations.

##### **4.3 [20/0583/LBC](#) - 4 Oxford Road**

Installation of Electric Vehicle Charging Station.

**Bindu Arjoon**

Director

**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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