

**REPORT TO:** PLANNING COMMITTEE  
**Date of Meeting:** 27 May 2021  
**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 [20/1056/FUL](#) – **1A Rosebarn Avenue**. This was an application for the construction of a two and a half storey, four-bedroom detached dwelling within the garden of 1A Rosebarn Avenue.

The appeal site is located within Pennsylvania, and is sited close to the junction of Rosebarn Avenue and Pennsylvania Road.

The Council refused the development for four reasons. The Inspector considered the main issues in this appeal were:

- The effect of the proposed development on the living conditions of nearby residents,
- The effect of the proposed development on the living conditions of residents of 1A Rosebarn Avenue,
- The effect of the proposed development on the character and appearance of the surrounding area; and,
- Whether the proposed development would comply with national and local planning policy with regards to environmental sustainability.

First, considering the impact on neighbours. Despite concerns about loss of light to a neighbour, the Inspector concluded that in absence of any substantive evidence to dispute the details provided in the application, the proposal would not result in an unacceptable loss of light to the neighbouring dwelling. However, given the position of 1 Rosebarn Avenue to the boundary, and the position and height of the proposed dwelling, the Inspector concluded the proposal would have an unacceptable overbearing effect on the residents of 1 Rosebarn Avenue. The rear of the dwelling would directly face the rear gardens of properties located within Pennsylvania Road. Whilst within urban residential areas that there would be a degree of overlooking and intervisibility between properties, by reason of the height, number of substantially sized windows on the rear of the proposed new dwelling and given the relatively close proximity of the proposed new dwelling to the boundary with 170 Pennsylvania Road, The Inspector concluded the scheme would result in an unacceptable level of overlooking and loss of privacy with regards to that neighbouring dwelling. The proposed new dwelling would further enclose the rear garden of the property at 170 Pennsylvania Road and, by reason of its height and proximity, would have an overbearing effect for users of the rear garden amenity space associated with 170 Pennsylvania Road. In summary, the scheme would have a significant adverse effect with regards to the living conditions of nearby residents on the grounds of overlooking and loss of outlook.

Second, considering the impact on the living conditions of 1A Rosebarn Avenue. The Council was concerned the scheme would result in the garden space 1A Rosebarn Avenue being awkwardly shaped, and dominated by hard landscaping features which would not provide adequate living conditions. The Inspector concluded the garden would not be overlooked, and that although not a regular shape, the garden was a sufficient size which was in excess of local policy standards.

Concerns over the amount of hard landscaping could be overcome by conditioning a landscaping scheme. The Inspector found there would be no harm to the residents of 1A Rosebarn Avenue.

Third, the effect of the proposed development on the character and appearance of the surrounding area. The immediate surrounding area is characterised by well-proportioned detached dwellings of varying styles and designs, but which are consistent in terms of their scale, mass, set back from the highway and in respect of the use of red brick and tiled roofs. The proposed dwelling would be two and half storeys in height and would replicate the appearance, scale and mass of the dwelling on the opposite side of the adjacent road at 2 Rosebarn Avenue. The appeal scheme would further result in a dwelling which would maintain the consistent building line within Rosebarn Avenue and would be consistent in terms of mass and scale to other dwellings located within the immediate surrounding area. While the Council was concerned the subdivision of the existing plot would result in a form of development that would appear at odds with the established pattern of long rear gardens within the area, the Inspector noted the scale and depth of gardens within this area cannot be readily seen from public view. They did not find that the subdivision of the plot would be harmful to the established character and appearance of the area. The Council was also concerned this proposal could set a precedent for development of other corner plot gardens in the areas. Given the subdivision of the garden was acceptable, the concern about precedent for other gardens was dismissed, and each case should be considered on its own merits.

Fourth, environment and sustainability. The Council raised a number of environmental and sustainability concerns, and that the proposal would not enhance biodiversity, partially as a result of the loss of an established garden. The Inspector considered the proposal would provide a number of parking spaces which would be sufficient to serve the new dwelling and would provide cycle storage, electric car charging and solar panels. Conditions could be applied to any planning permission which required the inclusion of bird and bat boxes, alongside a landscaping scheme which could specify the types and amount of planting to be included, as well as ensuring that planting and soft landscaping be maintained to that standard thereafter. The Council considered the scheme could achieve more in terms of meeting carbon neutral aspirations. While the Inspector acknowledged this aspiration, there were no details of how a greater contribution could be achieved by the proposal. The Inspector considered the scheme provided options to reduce private motor vehicles trips, would install solar panels, and subject to conditions would provide limited biodiversity enhancements. For these reasons, the proposal would meet Policy CP15 and would accord with the environmental dimension of sustainable development.

In conclusion, the proposal would not be harmful to the character and appearance of the surrounding area, and would not be harmful to the living conditions of residents of 1A Rosebarn Avenue. However, the proposed development would be significantly harmful to the living conditions of residents of 1 Rosebarn Avenue and to residents of 170 Pennsylvania Road. The harm arising would significantly and demonstrably outweigh the scheme's potential benefits and the appeal should be dismissed.

3.2 [20/0037/FUL](#) - **20 Monks Road**. This application was for a change of use from domestic garage to mixed use of office (Use Class B1) and storage (Use Class B8).

This was a planning appeal for non-determination. The appeal is allowed and planning permission is granted. The Inspectors gave following reasons for allowing the appeal and grants permission for this development:

- a) The site comprises a garage no longer within the same ownership of the house it previously served, 20 Monks Road.
- b) That the development would accord with Policy E5 of the Local Plan, the site would therefore be suitable for the proposed business use having regard to development plan policy. H5 that states that planning permission will be granted for business use in residential areas provided that the proposal will not involve the loss of dwellings or loss of amenity. The inspector deem there should not be an adverse impact upon highway safety, nor loss of essential off-street residential parking, and street parking should not significantly increase.
- c) The inspector conclude that uses within Class B1 are, by definition, those that can be carried out within a residential area without detriment to the amenity of that area. Whilst Use Class B8 has the potential to be disruptive, in this case the small size of the site is unlikely

to support levels of activity which would be unacceptably harmful to residents within this reasonably high-density urban environment.

- d) Similarly, given the small scale of the proposal, it is unlikely to cause issues of parking or congestion within the road network that would be unacceptable or severe. It is noted that the site is easily accessible by walking, cycling or public transport, and users of the site could otherwise park in front of its doors.

Further the Inspector concluded that as there are no external changes proposed, the development would have a negligible effect upon the character and appearance of the area. I noted on site that the pedestrian door to the garage contains a window providing the internal space with natural light. There is no evidence that basic amenities, such as a form of toilet facility, could not be provided within the building for the modest scale of the intended use. Given such, he deemed it to be no reason to doubt that an adequate working environment could be provided within the building.

#### Conditions

In the event that the appeal was allowed, the Council requested conditions which the Inspector have assessed with regard to the tests set out in the National Planning Policy Framework and the Planning Practice Guidance. Given that the scheme seeks change of use only, he deemed it not necessary for a condition to confirm approved plans. As the proposal is for a mixed B1 and B8 use, he deemed it no basis to seek removal of Permitted Development Rights. Similarly, he saw no compelling reason why any internal works should be controlled. The garage no longer provides residential parking and, beyond that, no justifiable reason why this proposal should only be permitted for a temporary period has been provided. Given the findings above, a 'personal' permission is not necessary in this case.

## 4. New Appeals

### 4.1 [21/0180/FUL](#) – 70 Barley Lane, Exeter

Two storey side extension

#### **Richard Marsh**

Liveable Exeter Programme Director and City Development Strategic Lead

#### **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

Contact for enquiries: Democratic Services (Committees) - Room 2.3. Tel: 01392 265275