

REPORT TO: PLANNING COMMITTEE
Date of Meeting: 13th November, 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 (09/09/2023).

2. Recommendation:

2.1 Members are asked to note the report.

3. Appeal Decisions

3.1 [22/0397/FUL](#) **47 Union Road, St James's.** *Purpose-built student accommodation for 10 rooms.*

This was an appeal against the refusal of planning permission by the City Council for a proposed development of purpose-built student accommodation at 47 Union Road, Exeter.

The main issues considered were the effect on:

1. The character and appearance of the area - The Inspector found the proposal would be a prominent, bulky and high-density development that would be incompatible with the surrounding townscape. It would harm the character and appearance of the area.

2. Living conditions of neighbours - The Inspector found the proposal would harmfully reduce sunlight to the garden of the neighbouring property at 49 Union Road and its height and scale would have a dominating enclosing effect on the outlook of the occupants at number 49.

The Inspector considered the benefits of the proposal, including contributing to housing supply and economic and social benefits. However, these were outweighed by the adverse impacts identified.

Overall, the Inspector concluded the proposed development would fail to accord with the development plan and there were no considerations that outweighed this. Accordingly, the appeal was dismissed.

For the Decision, see:

[Reference: APP/Y1110/W/23/3315079 \(planninginspectorate.gov.uk\)](#)

3.2 [22/0401/FUL](#) **Kinnerton Court, Kinnerton Way, Exwick.** *Change of use of void area in existing residential apartment block to create one residential flat.*

[summary to follow]

For the Decision, see:

[Reference: APP/Y1110/W/23/3319123 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/applications/APP/Y1110/W/23/3319123)

- 3.3 [22/1337/LED](#) **66 Merrivale Road, St Thomas.** *Construction of a single storey annex within the rear garden.*

A certificate of lawfulness of existing use, for a single storey annex in the rear garden of 66 Merrivale Road, was refused as the building was being used as a self-contained dwelling. The main dwelling is currently used as a house in multiple occupation.

The appellant stated that the single storey building was substantially completed in August 2018, however no evidence has been submitted to indicate the date when the annex was substantially completed and first occupied, or by whom and whether occupation has been continuous. The plan submitted by the appellant indicated the outbuilding contains a bed/sitting room, shower room and kitchen. The Inspector said it has the appearance of, and the facilities of, a separate dwelling capable of independent living. Laundry facilities are at the rear of the main house and it is not necessary to enter the house to access these. Reference to it being akin to a 'granny annex' fails to recognise that some degree of dependence exists between the occupant of a 'granny annex' and that of a main house but no evidence of support has been shown here.

The Council submitted contradictory evidence from an HMO Licensing officer, who visited the property and subsequently confirmed that an HMO License was issued for the property for five residents. That officer confirmed that the annex was occupied by the owners of the site and is separate from the licence relating to the main dwelling. This contradicts information on the application form and also that provided to the enforcement officer on 16 May 2022 when the appellant claimed to use the main dwelling and had a bedroom there.

In summary, the Inspector said it has not been shown on the balance of probabilities that the use of the outbuilding as a self-contained annex ancillary to the main dwelling has been demonstrated. Furthermore as it is not an ancillary building to the main dwelling used for a purpose incidental to the house, the annex would require planning permission as it does not come within the scope of a householders permitted development rights.

For the Decision, see:

[Reference: APP/Y1110/X/23/3322252 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/applications/APP/Y1110/X/23/3322252)

- 3.4 [22/1378/FUL](#) **178-179 Sidwell Street, Newtown.** *Installation of a multifunction Hub unit, 2.6m in height, with integral advertisement display and defibrillator.*

[22/1379/ADV](#) **178-179 Sidwell Street, Newtown.** *Integral advertisement LCD screen for illuminated static displays within multifunction hub unit.*

A planning application and advertisement consent for a free standing multifunction hub unit with advertising displays and defibrillator was refused by the Council. This was because the units, both individually and in combination with the other units proposed,

were considered an incongruous and unduly prominent addition to the street scene, resulting in harmful street clutter, which would be detrimental to visual amenity and the character and the appearance of the local townscape.

The Inspector said: The hub would be a substantial structure within the street scene that would stand out as a prominent and eye-catching feature. Although the street is characterised by a varied range of commercial frontages and fascia signs, the hub would pay little regard to them by reason of its siting centrally within the pavement intruding prominently into the pedestrian thoroughfare detached from, and orientated at right angles to, any building frontage. The communication hub would also pay little regard to the scale and position of other street furniture and appear large and overbearing in comparison at street level. Moreover, the hub would be viewed in association with several existing bus shelters, their associated advertisement panels, and the other street furniture adding to the clutter to the street. As a result, it would have a harmful effect on the visual amenity and character and appearance of the immediate area.

Both appeals were dismissed.

For the Decisions, see:

[Reference: APP/Y1110/W/23/3318414 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/applications/APP/Y1110/W/23/3318414)

&

[Reference: APP/Y1110/H/23/3318415 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/applications/APP/Y1110/H/23/3318415)

3.5 [22/1659/FUL](#) **26B Ide Lane, Alphington.** *Two storey side extension and single storey front extension and alterations.*

The application site forms one of two modern style detached properties on Ide Lane which are set back from the road with large front and rear gardens.

The Inspector highlighted the main issues to be, the effects the proposal would have on the character and appearance of the host property and the surrounding area.

The Inspector noted the height, width and resulting massing of the extensions would depart substantially from the modest character of the host dwelling, creating an incongruous element of the built form in a prominent position on the street. It was further felt that the extent of the proposed cladding would contrast with the otherwise consistent material palette of the area and it would highlight the unsympathetic scale of the extensions. The significant front protrusion would fail to respect the existing urban grain and the Inspector disagreed with the appellant's view that the proposal would be subservient to the host dwelling.

In addition, the Inspector noted the appellants' comments that the development plan and SPD have been superseded by more recent Frameworks but felt there was no evidence to suggest the decision should not be made in accordance with the Council's existing development plan.

Consequently, the appeal has been dismissed.

For the Decision, see:

[Reference: APP/Y1110/D/23/3320257 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/y1110/d/23/3320257)

3.6 [23/0064/FUL](https://www.planninginspectorate.gov.uk/app/y1110/d/23/0064/ful) **12 Unicorn Street, St Loyes.** *Construction of a single storey annex within the rear garden.*

The application site forms part of a modern high-density estate.

The Inspector highlighted the main issues to be, the effects the proposal would have on the character and appearance of the host property and the surrounding area plus the effects the proposal would have on the living conditions of the occupiers at 12 Walsingham Place with particular regard to daylight, outlook and privacy.

The Inspector noted our guidelines within the SPD. The Inspector felt that the proposed extension would add significantly to the overall scale and bulk of the building which would be a very noticeable feature from Walsingham Place and the surrounding area. Due to the increased visibility the proposal would negatively impact the street scene.

It was further felt that the proposals would disrupt the symmetry of the appeal property, which together with the adjoining flats would create an unacceptably dominant feature, enclosing the courtyard to the detriment of the built environment.

Even with an obscure glazed window facing 12 Walsingham Place the feeling of overlooking would be created, which would be manifested at dusk/night when the light was on. In addition, the increased bulk of the dwelling would create an overbearing addition which would negatively impact the neighbour at 12 Walsingham Place.

Other matters of note from the inspector include:-

- Our development plan is not out of date.
- Improved family accommodation is largely a private benefit.
- Even if the existing bedrooms are smaller than minimum space standards, limited information was proved to show improvements couldn't be met by less harmful schemes.

Consequently, the appeal has been dismissed.

For the Decision, see:

[Reference: APP/Y1110/D/23/3321165 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/y1110/d/23/3321165)

3.7 [23/0362/FUL](https://www.planninginspectorate.gov.uk/app/y1110/d/23/0362/ful) **3 Third Avenue, Heavitree.** *Rear extension and adjoining, partial replacement of side extension.*

[summary to follow]

For the Decision , see:

[Reference: APP/Y1110/D/23/3324589 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/app/y1110/d/23/3324589)

3.8 [23/0439/FUL](#) – 2 Baring Crescent - *Two storey side extension.*

The application, following a previous dismissed appeal, was for a two storey side extension, which extended beyond the front elevation facing Baring Crescent by over 2m. The application was refused because it was considered to be an unsympathetic form of development that would lack subservience, and would be detrimental to the character and appearance of the existing building; would be detrimental to the streetscene, and would not preserve the character and appearance of the conservation area; and, would be harmful to neighbouring amenity due to overbearing and impact on outlook.

The Inspector noted, on the Heavitree Road elevation, the extension would step down in height from the main ridgeline, matching the existing materials and proportions of the property and maintaining the simple character of this elevation. Whilst it would not step back from the main wall, the clear step down in ridge and eaves height would maintain subservience to the main house. From this primary public vantage point, the development would not be unduly prominent, or result in harm to the character of the property or the street scene.

On the Baring Crescent elevation, the proposals would introduce a two storey pitched roof elevation, faced with timber cladding. Whilst timber cladding is not found on the property, it is present in the local area, including on modern extensions. The Inspector acknowledged that the eaves of the rear projection would sit just above the eaves height of the main house, and that the elevation would project considerably beyond the main building line. However, the step down in ridge height, the reduced massing of the pitched roof, and the modest width of the extension in relation to the main building was considered overall, to maintain subservience to the host dwelling.

Whilst the proposal conflicted with some of the General Principles of the Householder's Guide to Extension Design SPD, in this instance, the Baring Crescent frontage is the original rear elevation of the property. The Inspector considered that that the property is set well back from Baring Crescent, behind a line of tall fencing and substantial garden vegetation. Even though the address change has officially made this the new front elevation, its perception and contribution to the street scene is that of an enclosed rear garden. The proposed extension was not considered to be harmful to local character or the street scene in this context.

The Inspector also concluded that the proposals would not cause unacceptable harm to the living conditions of the occupiers at St Luke's House, in part due to the use of contrasting materials on part of this elevation to break up the visual massing, by the step down in the ridge height, and by the pitched roof of the southern projection and its roofline sloping away from St Luke's House.

Consequently, the appeal is allowed.

For the Decision , see:

[Reference: APP/Y1110/D/23/3324401 \(planninginspectorate.gov.uk\)](#)

4. New Appeals

- 4.1 [22/0756/FUL](#) **Newberry Car Breakers, Redhills, Exwick.** *Proposed development of six detached, 5-bedroom, residential dwellings and associated access and landscaping.*
- 4.2 [22/1122/FUL](#) & [22/1123/LBC](#) **25 Monmouth Street, Topsham.** *Installation of six black PV solar panels on rear roof slope.*
- 4.3 [22/1662/FUL](#) & [22/1663/FUL](#) **15 & 16 Eton Walk, St Thomas.** *Construction of single garage.*
- 4.4 [22/1756/LED](#) **11 Abbots Road, Pennsylvania.** *Existing use as Small HMO (Use Class C4), limited to 3 no. occupants.*
- 4.5 [ENF/21/00109](#) **38 Commercial Road, Quayside.** *Ground floor retail unit used as a private garage*

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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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