

Appeal Decision

Site visit made on 16 August 2016

by Kenneth Stone BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 08 September 2016

Appeal Ref: APP/P1133/W/16/3144985

1 The Square, Old Exeter Street, Chudleigh, Devon TQ13 0LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms Maria Cochrane against the decision of Teignbridge District Council.
 - The application Ref 15/01770/FUL, dated 19 June 2015, was refused by notice dated 24 September 2015.
 - The development proposed is the demolition of an existing single storey commercial unit and a mixed use redevelopment to comprise 1 No. retail unit, 1 No. townhouse and 6 No. residential apartments.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms Maria Cochrane against Teignbridge District Council. This application is the subject of a separate Decision.

Procedural matters

3. I have been provided with an executed legal agreement securing a contribution towards affordable housing. I return to this matter below.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the character and appearance of the surrounding area, including the Chudleigh Conservation Area (CCA), and the setting of nearby nearby listed buildings including the Chudleigh War Memorial (the War Memorial) and The Obelisk.

Reasons

5. Chudleigh is a market town with its origins of human occupation spanning a considerable period of time, including prehistoric remains. Whilst saxon, medieval and later development in the 17th centuries through to the 19th centuries are identifiable, following the great fire in 1807 significant rebuilding in the heart of the town took place. It is much of this re-built heart of the town that forms the conservation area and which is focused on the confluence of the three principal roads, Fore Street, Old Exeter Street and New Exeter Street.
 6. The appeal site forms an area of land at the end of Old Exeter and New Exeter Streets and the head of Fore Street. There is historical evidence to show the site was originally occupied by buildings, including a public house and a bank, but these were subsequently demolished and the site presently is an area of
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- open land in the heart of the town. There are a number of trees and shrubs on the site, but it is generally overgrown. The site is delineated by railings for the majority of it New Exeter Street and Fore Street frontages.
7. The CCA Character Appraisal and Management Plan identify that the wholesale re-building, re-alignment of building frontages, re-ordering of frontage widths and the scale of buildings add substantially to the significance of the area, adding much more than local interest to this significance as it was one of the first large scale urban undertakings to be affected by the legislation introduced at that time. The main façades of the town have a generally elegant appearance with a cohesive appearance of 'polite classical styling of the late georgian and early Victorian periods dominating the scene' as described in the CCA Character Appraisal. The rebuilt buildings on New Exeter Street are of three storeys providing scale and presence; those on Old Exeter Street are more varied between two and three storeys.
 8. The significance of the conservation area derives from the street pattern, building scale and cohesive design and use of materials. The Obelisk and the War Memorial are both listed buildings, Grade II, and are located directly in front of the appeal site in what is referred to as Conduit Square. Their significance is derived from the purpose of their erection and events marked rather than their architectural quality although the location at the heart of the town centre is important to that significance to the town.
 9. The proposed development would introduce a building with a modern design that seeks to re-establish the historic building frontage. Whilst in layout terms a new building on this site is a matter that in principle could assist in better revealing the historical significance of the street pattern and building forms, the building proposed comprises distinct and separate elements that distract from the coherence and cohesive appearance that would be more suited to the site.
 10. Whilst the scale of the building fronting the New Exeter Street frontage is of a reasonable scale and complements that of the adjacent terrace. The part of the elevation of the building towards the Fore Street junction, the change in building form and detail, along with the introduction of a metal clad third floor introduces elements that distract and jar with the more prevalent ordered and subdued painted rendered façades in the area. The metal clad third floor element is further emphasised by the lowering of the two floor element and provision of a balcony. The treatment of this latter part of the two storey elevation with the large expanses of render, irregular fenestration pattern and solid to void ratios does not integrate well with those of the surrounding terraced properties.
 11. Along the Old Exeter Street façade the new building at three storey appears an excessively assertive element of the design, where it sits in close proximity to the adjoining two storey existing development. The assertive appearance of this element is further emphasised by the application of tile hanging, a material which the CCA Management Plan identifies is not used anywhere in the CCA. To my mind these individual elements conflict with the harmony of the existing buildings, their scale and relatively coherent use of materials.
 12. When taken together the elements do not combine to provide a pleasing contribution that integrates well within the existing distinctive character of the area but rather, brashly and excessively, stand out as a strident and poorly integrated element in the street scene. The unashamedly modern approach is

not the root of the problem rather the mix of forms, materials and combination of differing elements of the building which appear as a disaggregated combination rather than a cohesive and coherent intervention in a sensitive location.

13. I note that much is made of the Chudleigh - Teignbridge Towns and Village Project and the identification of the site as a development opportunity and the mixed advice or description it is said is provided in the CCA Character Appraisal and the CCA Management Plan. I note in the Teignbridge Towns and Village Project document that the site is referred to in the context of an opportunity to develop a new corner building. The document however suggests two options one of which includes reducing the developable area for the building and increasing the area available to improve Conduit Square and indeed in the costings section it is this latter option that is said to be the preferred option. In any case the advice in that document goes on to advise that the extent of the site should be reviewed and should respond to views from Market Way and Fore Street. It is not therefore unequivocal support.
14. Similarly the action points in the Conservation Appraisal and Management Plan related to the Conduit Square area suggest a review of this space may present opportunities to enhance the character and appearance of the conservation area. Whilst there are indications of the negative aspects of the gap in the building frontage, the overgrown nature of the site and the truncated treatment to the end of 31 New Exeter Street they do not provide specific guidance on how any enhancement may be achieved.
15. The Obelisk and War Memorial are free standing objects in the centre of the town they are individual set pieces and do not derive significance from the surrounding buildings other than they hold a prominent position in the centre of the town. However, the redevelopment of the site would result in the provision of a large strident building at this sensitive junction. The building would draw attention in longer views up Fore Street towards the junction with Old Exeter Street and New Exeter Street and become a focus of attention. The scale size and appearance of the building would overwhelm the intimate space that exists around these memorials which would distract from their setting and thereby diminish the significance of these listed buildings by intruding on their setting in a manner which would overwhelm and distract from their presence, their setting is therefore not preserved.
16. The loss of the space is obviously an area of concern for local residents, but I accept that the Council documents suggest that there is the potential for some form of development on the site. To that extent the potential loss of part of the area of open space is something that is alluded to in those documents. The extent of the reduction in open space, the size of the footprint of any new building and the scale, design, form and treatment of that building are however not matters on which there are detailed guidance.
17. I am satisfied that for the reasons given above the scale, form, design and materials used in the proposed development would materially harm the character and appearance of the area, including the CCA, which would not therefore be preserved or enhanced. I am also satisfied that given the nature of the War Memorial and Obelisk that the contribution their setting makes to their significance would also be harmed.

18. Consequently the proposals would conflict with policies S1, S2, S20, CH8 and EN5 of the Teignbridge Local Plan which collectively seek to ensure high quality development that responds to the distinctive character of the local area and protect heritage assets.

Other matters

19. The Council and appellant have entered into a legal agreement under section 106 of the planning act to secure a contribution for affordable housing arising from the requirements of policy WE2 of the Local Plan. The written ministerial statement of 28th November 2014 sets out national planning policy defining the circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale development. The Planning Practice Guidance (PPG) has been updated to reflect these changes and provides further advice. It is not argued by the parties that the proposals would not be caught by this policy and indeed the appellant initially confirmed that the obligation was no longer being offered as it fell below the threshold. The Council however maintained its requirement relying on policy WE2 of its local plan. The local plan was adopted in May 2014.
20. Following legal challenge to the Governments position this national policy and advice in the PPG have been re-instated and this post-dates the adoption of the Local Plan. Whilst I have regard to the Local Plan policy as my starting point this has to be considered in the context of national policy and advice in the PPG, the Council have provided no robust justification or special circumstances regarding the critical need for affordable housing in this location and I give the government advice significant weight. The Framework at paragraph 204 sets out the tests for planning obligations and these are similar to those I must apply under the Community Infrastructure levy Regulations. In the light of the government advice that the scheme falls below the threshold and that there are no significant circumstances to dictate otherwise I therefore conclude that the obligation is not necessary to make the development acceptable and is not fairly and reasonably related in scale and kind to the development. On this basis I cannot take the obligation into account as a reason to grant planning permission.
21. Local residents have raised a number of issues in their substantive representations other than those related to the main issue above. These included matters related to the operation of the highway, highway safety and pedestrian safety amongst other matters. The Council did not object to the proposals on these grounds and from the information before me I see no reason to disagree with its conclusions in this regard.

Overall conclusions

22. The proposed development would harm the character and appearance of the area including the CCA, and the setting of adjacent listed buildings. It therefore conflicts with the statutory requirements to preserve and enhance conservation areas that I am required to exercise and the special regard I am to give to the preservation of the setting of listed buildings. As such the proposal also does not meet the environmental or social roles required to make it sustainable development. The negative aspects of the scheme would not be outweighed by any positive benefits of the scheme that may arise from the provision of additional housing. Given my conclusions on affordable housing contributions above I have not added that to the balance, however to be clear,

even had I accepted that the obligation could be a reason to grant planning permission, the benefit that would have accrued from affordable housing would not have been sufficient to outweigh the harm I have identified.

23. For the reasons given above I conclude that the appeal should be dismissed.

Kenneth Stone

INSPECTOR