
Appeal Decisions

Site visit made on 7 September 2016

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 22 November 2016

Appeal A: APP/Y1110/W/16/3151012

Rear of 14 Fore Street, Topsham, Devon EX3 0HF

- 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 Heavitree Brewery Plc against the decision of Exeter City Council.
 - The application Ref 15/1062/03, dated 28 September 2015, was refused by notice dated 25 November 2015.
 - The development proposed is conversion of part rear of premises to dwelling.
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Appeal B: APP/Y1110/Y/16/3151013

Rear of 14 Fore Street, Topsham, Devon EX3 0HF

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Heavitree Brewery Plc against the decision of Exeter City Council.
 - The application Ref 15/1063/07, dated 28 September 2015, was refused by notice dated 25 November 2015.
 - The works proposed are conversion of part rear of premises to dwelling.
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Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Procedural Matter

2. For ease of reference I refer to the different cases as Appeals A and B in this decision letter as set out in the headers. I have dealt with each appeal on its individual merits but to avoid duplication have considered them together in this document.
 3. The Council, in its decision notices, refers to policies DD1 and DD13 of the Exeter City Council Development Delivery Development Plan Document (the DPD). Whilst this is not currently adopted, pending Examination, I have applied some weight to those policies, having regard to paragraph 216 of the National Planning Policy Framework (the Framework), as they seem broadly consistent with the Framework.
 4. The Council also refers to its Supplementary Planning Document: Residential Design (the SPD) to which I have also afforded some weight due to its role in supporting the relevant development plan policies. However, I have had regard to the Written Ministerial Statement of 25 March 2015 (the WMS) which sets out that existing Local Plan policies relating to water efficiency, access and
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internal space should be interpreted by reference to the nearest equivalent new national technical standard.

Main Issues

5. The main issues are:

- (i) the effect of the proposed development/works on the environment in respect of the sustainability of its design;
- (ii) whether the proposed development/works would provide adequate living conditions for future residents in terms of internal living space, external garden space, and outlook from and light into the dwelling.

Reasons

Environmental sustainability

- 6. The Council raises concern about the limited amount of information provided in respect of how sustainable design would be achieved.
- 7. The WMS sets out provision for applying optional Building Regulations (the new national technical standards) in respect of water efficiency and for tighter energy performance standards than those otherwise required by the Building Regulations. The WMS states that where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, or in the case of energy, a standard consistent with the WMS policy, concerning energy performance. In relation to energy performance the Building Regulations Part L 2013 is already equivalent to the former Code level 3 on energy.
- 8. In respect of energy performance, the WMS states that policies requiring compliance with energy performance standards that exceed the energy requirements of Building Regulations can be applied until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Bill 2015. At this point the energy performance requirements in Building Regulations will be set at a level equivalent to the (outgoing) Code for Sustainable Homes Level 4. Requirements above a Code level 4 equivalent should not be set until the amendment is commenced. In this case, Policy CP15 of the Core Strategy sets out such a requirement for development to achieve the (outgoing) Code level 4 as of 2013, albeit that the level is shown as higher in 2016. It is therefore reasonable to expect the equivalent to Code Level 4.
- 9. The appellant has set out a number of general measures and factors that is claimed would contribute towards high energy performance. This would include high levels of insulation, controllable heat loss and the avoidance of an excess of solar gain due to the window apertures, energy efficient and modern appliances, LED lighting, AAA rated electrical appliances, wood burning stoves, and use of low carbon footprint timber frame in a large part of the modification. However, I have not received any detailed information relating to whether such measures and factors would achieve the equivalent to the Code level 4.
- 10. I acknowledge that the building is listed and that this may affect the nature and extent of sustainable design measures that could be incorporated.

However, I have received no substantive evidence to demonstrate that this has been investigated.

11. In respect of water efficiency, the WMS makes it clear that the new national technical standards can only be applied where there is a relevant current local plan policy. In this case, there is no relevant current policy that requires new dwellings to meet the tighter requirement of 110 litres/person/day. Policy CP15 of the Exeter Local Development Framework Core Strategy (the Core Strategy) does not include such a standard and the SPD only makes specific reference to the Building Regulations water consumption level of 125 litres per day as a minimum. Consequently, the limited amount of information provided in this respect is not a matter which carries any significant weight against the proposal. However, this factor does not outweigh my concern relating to there being insufficient energy performance evidence.
12. Therefore, for the above reasons, I conclude on this issue that the proposed development would, in the absence of sufficient evidence to the contrary, have an unacceptable effect on the environment in respect of the sustainability of its design. As such, it would be contrary to policy CP15 of the Core Strategy and the SPD.

Living conditions

13. It is disputed as to the extent of floorspace that would be provided, having regard to the Council's and nationally described standards. In respect of the level of internal floorspace, I note that overall it falls below the nationally described space standard of 58 square metres for two storey dwellings. However, WMS makes it clear that such standards can only be applied where there is a relevant current local plan policy. In this case, there is no such policy that refers to the national standards, as the DPD, which in policy DD13 contains such reference, is not adopted. However, as previously highlighted, I have given some weight to that policy.
14. Notwithstanding this, the bedroom complies with the nationally described standard and the submitted drawings demonstrate how the remaining space could be laid out in order to enable adequate living/dining and kitchen accommodation, albeit fairly restricted in terms of circulation space. For these reasons, and taking account of the less than full weight that I have applied to policy DD13, the internal space would provide an acceptable living environment.
15. The proposed courtyard amenity space would be fairly narrow and enclosed. However, its depth would provide it with some sense of space and enable a degree of daylight into it. Furthermore, it would be fairly private, and would be set away from the street frontage such that it would be likely to be protected from any potential significant noise disturbance. Although there would continue to be the existing door and window openings on one side of the space relating to the adjacent shop, those openings are clearly blocked up and unused and so would be unlikely to make prospective residents uneasy in using the space in this respect. For these reasons, although the space concerned is small and less than the quantity stated in the SPD, I consider it to be acceptable in the context of the dense built environment of this town centre location.

16. Although the habitable rooms of the first floor would only have single aspect windows, that relating to the living/dining area would be a fairly large window, whilst the bedroom would have two windows serving it, albeit of more modest size. The kitchen on the ground floor would have a glazed roof and a small window facing the proposed courtyard space. I am therefore satisfied that there would be an adequate level of outlook from the dwelling and that the level of light into it in terms of sunlight for part of the day and daylight generally, would be acceptable.
17. For the above reasons, I conclude on this issue that the proposed development/works would provide adequate living conditions for future residents in terms of internal living space, external garden space, and outlook from and light into the dwelling. As such, it would accord with policy CP17 of the Core Strategy, policy DG4(b) of the Exeter Local Plan First Review, and policies DD1 and DD13 of the DPD, and would not be at odds with the principles behind the SPD, in so far as together, in respect of this issue, they require a high standard of sustainable design, a quality of amenity which allows residents to feel at ease within their homes and gardens, regard to be had to creating healthy communities, and good living conditions and standards of amenity. Policy DD13, as I have previously highlighted, also refers to whether sufficient internal space is provided in accordance with nationally designated space standards. Although that would not be the case, as I have highlighted above, compliance with those standards can only be required where there is a relevant current Local Plan policy.
18. It would also accord with the Framework in respect of this issue which, in paragraph 17, sets out that planning should always seek to secure a good standard of amenity for all future occupants and in section 7 requires good design.
19. The Council, in its decision notice, also refers to Policy H2 of the Exeter Local Plan First Review. However, that policy relates to meeting housing needs rather than specifically living conditions and so is not directly relevant to this issue.

Other matters

20. The property is a Grade II listed building (LB) and located within the Topsham Conservation Area (the CA). Therefore, special attention has to be paid to the desirability of preserving the special interest of the LB and preserving or enhancing the character or appearance of the CA.
21. The proposed alterations to the building would include creating a doorway opening adjacent to the proposed front door to serve a proposed bin store, a modest single storey extension into the rear courtyard to form part of the proposed kitchen, and new internal partitioning. Those alterations would be modest and sympathetic to the character of the LB. As such I am satisfied that the proposal would preserve the special interest of the LB and the character and appearance of the CA.
22. I have had regard to the benefits of the proposal in terms of ensuring the re-use of a vacant LB, and the associated degree of renovation and on-going maintenance that would be likely to result from this. Whilst that would be the case, I have received no substantive evidence that the building is in sufficiently

poor condition for this to be an over-riding factor and so afford little weight to this factor.

Conclusion

23. I have found that the proposed development/works would provide adequate living conditions for future residents in terms of internal living space, external garden space, and outlook from and light into the dwelling. However this, along with the little weight that I have afforded to the benefits of reusing a vacant LB, does not outweigh my finding that it would, in the absence of sufficient evidence to the contrary, have an unacceptable effect on the environment in respect of the sustainability of its design.
24. Therefore, for the reasons given above, I conclude that the appeals should be dismissed.

Andrew Dawe

INSPECTOR