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## Appeal Decision

Site visit made on 26 June 2017

**by Rory Cridland LLB (Hons), Solicitor**

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

**Decision date: 20 July 2017**

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**Appeal Ref: APP/Y1110/W/17/3171257**

**The Villa, Cowick Lane, Exeter EX2 9HY**

- 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 Mr & Mrs P Stansell and Mr & Mrs M Stansell against the decision of Exeter City Council.
  - The application Ref 16/0825/03, dated 1 July 2016, was refused by notice dated 6 October 2016.
  - The development proposed is one detached house.
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### Decision

1. The appeal is dismissed.

### Preliminary matter

2. The appellant has suggested that Policy C2 should be afforded only limited weight due to its age. However, although it pre-dates the advice set out in the National Planning Policy Framework ("the Framework"), it is broadly consistent with it, including Paragraph 132 which advises that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Furthermore, it recognises that significance can be harmed or lost through amongst other things, development within its setting. Moreover, I note that the wording of Policy C2 accords with the duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I am therefore satisfied that, notwithstanding its age, Policy C2 should be afforded full weight in the determination of this appeal.

### Main Issue

3. The main issue is the effect of the proposed development on the setting of nearby listed heritage assets.

### Reasons

4. The appeal site is located in the rear garden of a large detached Grade II listed building which has been subdivided into five self-contained flats. Although there are a number of other more modern residential properties nearby, they are mostly screened by a number of mature trees and shrubs located along the three boundaries of the rear garden.
5. The existing property, known as the Villa, is a late 18<sup>th</sup> century detached dwelling which, while originally a more isolated building, still retains a large and

impressive garden. It is the last remaining element to survive of the original designed setting of the main house and enhances the imposing nature of the principal elevation of the Villa. This is further enhanced by the listed boundary wall located along the southern boundary which adds to the overall significance of the site.

6. Saved Policy C2 of the Exeter Local Plan 1995 -2011<sup>1</sup> requires development which affects a listed building to have special regard to the desirability of preserving the building or its setting, or any features of special architectural interest which it possesses. Furthermore, the explanatory text recognises that the character of listed buildings frequently depends upon their setting and that garden, courtyards and other spaces restricted to pedestrian use, together with boundary walls, railings and gates are integral to the character of many historic areas and should be retained.
7. The works proposed are not moderate or minor and would involve subdividing the existing garden and erecting a new dwelling in close proximity to the Villa. The addition of a dwelling in this location would irretrievably damage the setting of this listed building. It would significantly reduce the garden and the remaining area would appear small and out of keeping with the more grandiose façade of the Villa. This would be harmful to the setting and significance of this designated heritage asset.
8. While I accept that the car parking area and visibility of Eaton Garth have, to some extent, already eroded the building's historical setting, this does not justify further erosion. The significance of the original building was partly derived from the large and impressive grounds, and this is still evident in what remains with its present garden. Its loss would significantly impact on the overall significance of the Villa.
9. Furthermore, the proposal would separate the main dwelling from the listed boundary wall, artificially severing the relationship between these heritage assets. This would negatively impact on both of these heritage assets and would exacerbate the harm identified above.
10. As heritage assets are irreplaceable, any harm or loss to Grade II listed buildings should require clear and convincing justification. In this case, the erection of a dwelling in this garden would, in my opinion, result in substantial harm to the setting of this listed building. While I acknowledge the efforts of the appellant to limit the visual impact, and note that the proposal would result in a number of modest benefits, including providing an additional unit of accommodation and reducing the management costs of maintaining the large garden, even cumulatively those benefits are small. They do not represent the substantial public benefits required by Paragraph 132 of the Framework. Even if I were to agree with the appellant and conclude that the harm would be less than substantial, I have been provided with no substantive evidence of any public benefits that would, either individually or cumulatively, outweigh the resultant harm.
11. While I note the appellant has indicated that the maintenance of the grounds has become cost prohibitive, no robust evidence has been submitted which would indicate that this was the case or that they had become so costly that

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<sup>1</sup> First Review adopted 31 March 2005.

they would justify the level of harm that would result from the proposed dwelling.

12. Consequently, I conclude that the proposal would result in substantial harm to the setting and significance of the Villa and its boundary wall. As such, it would be contrary to LP Policy C2 as well as the guidance set out in the Framework, both of which seek to ensure that designated heritage assets and their settings are preserved.

### **Other matters**

13. I note that the appellants have indicated that a number of the flats have now been sold without any maintenance liability for the upkeep of the gardens. However, that is a private arrangement and provides little support in favour of the proposed scheme.
14. In reaching my decision, I have noted the other appeal decisions referred to by the appellant. Although I do not have full details, I note that they do not involve the erection of a new dwelling in the formal setting of, or in such close proximity to, a Grade II listed building. As such, they are unlikely to be sufficiently similar to the present scheme so as to act as a justifiable precedent for the development proposed. In any event, each application should be considered on its own merit and that is the approach I have taken in determining this application.

### **Conclusion**

15. For the reasons set out above, and having taken account of all other matters raised, I conclude that the appeal should be dismissed.

*Rory Cridland*

INSPECTOR