
Appeal Decisions

Site visit made on 20 August 2019

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 9th September 2019

Appeal Ref: APP/Y1110/W/19/3228042

48 St David's Hill, Exeter EX4 4DT

- 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 Mrs Christine Gordon against the decision of Exeter City Council.
 - The application Ref 18/1201/FUL, dated 8 August 2018, was refused by notice dated 5 March 2019.
 - The development proposed is the erection of a single storey dwelling, removal of external soil pipes from listed building, extend and refurbish existing ground floor flat and landscape the garden.
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Appeal Ref: APP/Y1110/Y/19/3228055

48 St David's Hill, Exeter EX4 4DT

- 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 Mrs Christine Gordon against the decision of Exeter City Council.
 - The application Ref 18/1202/LBC, dated 8 August 2018, was refused by notice dated 5 March 2019.
 - The works proposed are the erection of a single storey dwelling, removal of external soil pipes from listed building, extend and refurbish existing ground floor flat and landscape the garden.
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Decisions

1. Both appeals are dismissed insofar as they relate to the proposed detached single storey dwelling. Both appeals are allowed insofar as they relate to the removal of external soil pipes from the listed building, and the extension and refurbishment of the existing ground floor flat, and planning permission and listed building consent are granted accordingly, subject to the conditions in the Schedules below.

Main Issue

2. Whether the proposal would harm the established character of this residential area; specifically, whether it would preserve or enhance the character and appearance of the St David's Conservation Area (CA) and preserve the listed building (LB) and its setting.

Reasons

3. The appeal property is a three storey late eighteenth or early nineteenth century stucco building with a symmetrical front elevation typical of the late Georgian period. It is a mid-terrace building, originally a single house now converted into six flats, listed Grade II. Nos 46-54 (even) form a group and

comprise part of the terrace comprising Nos 42-54 (even). Nos 42, 46, 50 and 52/54 are all also Grade II listed as is No 45 on the opposite side of the road, and a number of other buildings in the vicinity are also listed including St David's Church (Grade I). All these buildings lie within the CA.

4. The proposal is to demolish an existing brick-built shed at the back of the rear garden and erect a single storey dwelling in its place, although this would be more than twice the size and extend much further back into the LB's garden. The proposal also includes the removal of the external soil pipes on the rear elevation of the LB and a 3.7m deep extension to the existing ground floor flat in an outrigger rear extension built in 1978.
5. The Council has no objection to the extension to the existing ground floor flat nor to the removal of the existing soil pipes and their tidying up by their realignment both internally and externally, specifically by the installation of a new more concealed soil pipe in the northern corner of that elevation where it abuts No 50. I agree that these elements of the scheme are uncontentious and quite acceptable.
6. Regarding the proposed new detached dwelling I agree that the architect has tried his best to design a building that would minimise impact on the setting of the LB and character and appearance of the CA. However, the long rear garden plots of the Georgian terraces on St David's Hill, particularly Nos 42-50, are an inherent and attractive characteristic of the area.
7. I accept that the plot width of No 48 including its rear garden is considerably wider than that of its neighbours at Nos 44, 46 and 50. It is a similar width to the plot at No 42. A large and imposing rendered two storey house occupies the back half of what was once presumably No 42's rear garden, although I understand that site was previously occupied by a scout hall, which may explain why this house was granted permission. Although the house is itself well designed, its height and mass are out of keeping with the adjacent listed terrace and the character and appearance of Little Silver, an important open space within the CA which it backs onto. As such that house should not constitute any kind of precedent for allowing similar development.
8. The proposed new dwelling would be single storey and only its pyramidal roof would be visible from Little Silver; its height and mass are therefore incomparable with the dominant impact of the house to the rear of No 42. However, the subdivision of No 42's original plot is also harmful to parent LB and the CA. The appeal proposal would replicate such unacceptable harm at the appeal property.
9. There is an attractive copper-leaved tree adjacent to the northern wall of the appeal property next to the existing rear shed. The proposed new dwelling would be built very close to this tree such that it would probably be necessary to remove it, or else the foundations of the new building would be likely to sever its lateral roots and lead to its demise. Even if this was not the case the tree would significantly block light to the proposed dwelling's kitchen window and so there would be pressure to fell it. I consider this tree is important to the character and appearance of the CA, because of its size and colour and because it screens oblique views between the windows of 1 Little Silver and the garden of No 48.

10. For these reasons I conclude that the proposal to erect the new detached dwelling would fail to preserve the setting of the principal LB and the settings of the adjoining LBs at Nos 46 and 50. It would also fail to preserve the character and appearance of the CA, because the long rear garden plots of No 48 and its neighbours are an important characteristic of the CA. The above harm would be 'less than substantial' in terms of its impact on the LBs and the character and appearance of the CA as a whole. But the public benefit of providing one additional dwelling would not, in my judgement, overcome such harm, even if the Council cannot demonstrate a five year housing land supply.
11. As such this aspect of the proposals would fail to comply with 'saved' Policy DG1 of the Exeter Local Plan First Review (LP). Specifically, it would not comply with sub-paragraphs (a), (b), (d) and (h), which together require development to promote local distinctiveness and the pattern of street blocks and urban structure. It would not accord with Chapter 16 of the National Planning Policy Framework (NPPF), nor with LP Policies C1 and C2, which essentially mirror such national policy in regard to preservation of designated heritage assets and the statutory tests in the Act¹. Policy CP17 of the Exeter Core Strategy appears to have little relevance to these proposals because it relates to principal regeneration areas and large urban extensions.

Conditions

12. A number of conditions are necessary in respect of the extension hereby approved, and meet the other tests in the NPPF and Planning Practice Guidance in respect of both the planning permission (PP) and listed building consent (LBC) regarding the extension and other works to the LB. A condition listing the approved drawings is necessary for both the PP and LBC in the interests of precision. In respect of the PP, a condition requiring a construction management plan is necessary to preserve the living conditions of neighbouring residents. A condition specifying the prior approval of external materials is unnecessary because the extension is to be rendered as per the existing outrigger extension's external finish.

Conclusion

13. For the reasons given above I conclude that the appeals should be allowed in part and dismissed in part.

Nick Fagan

INSPECTOR

¹ S66(1) & 72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

Schedules of Conditions in respect of the proposed extension and other works to the listed building only

Planning Permission Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LP 458_1A; BP 458_1; 458.1.103A.
- 3) Pre-commencement condition: No development shall take place until a Construction and Environment Management Plan CEMP has been submitted to and approved in writing by, the Local Planning Authority. Notwithstanding the details and wording of the CEMP the following restrictions shall be adhered to: a There shall be no burning on site during demolition, construction or site preparation works; b Unless otherwise agreed in writing, no construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 0800 to 1800 hours Monday to Friday, 0800 to 1300 on Saturdays, and not at all on Sundays and Public Holidays; c Dust suppression measures shall be employed as required during construction in order to prevent off-site dust nuisance. The approved CEMP shall be adhered to throughout the construction period.

Listed Building Consent Conditions

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LP 458_1A; BP 458_1; 458.1.103A.

End of Conditions