



Appeal Decision

Site visit made on 30 September 2019

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2019

Appeal Ref: APP/Y1110/W/19/3229913

42-44 Buller Road, Exeter EX4 1BJ

- 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 Wheaton against the decision of Exeter City Council.
 - The application Ref 18/1644/FUL, dated 9 November 2018, was refused by notice dated 1 February 2019.
 - The development proposed is the change of use and conversion of formal chapel to a single dwellinghouse, including the partial demolition of the existing rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use and conversion of formal chapel to a single dwellinghouse, including the partial demolition of the existing rear extension at 42-44 Buller Road, Exeter EX4 1BJ in accordance with the terms of the application Ref 18/1644/FUL, dated 9 November 2018, and subject to the following 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 approved plans: 1:1250 Location Plan, Dwg. No.s P17043/P/004, P17043/P/005, P17043/P/006 and P17043/P/008.
 - 3) Unless otherwise agreed with the Local Planning Authority, the front boundary wall shall be constructed using a brick that matches the texture and colour of those on the front elevation of the building.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the timber windows and doors on the front elevation of the building shall be permanently retained and maintained. Any replacement windows or doors on the front elevation shall not be installed unless, and until, the Local Planning Authority has granted planning permission for such a scheme.

Main Issue

2. The main issue is whether there is sufficient justification for the loss of the community facility on this site having regard to development plan policies and the National Planning Policy Framework (the Framework).

Reasons

3. Objective 6 and Policy CP10 of the Exeter City Council Core Strategy (adopted February 2012)(the Core Strategy) sets out a strategic approach to the protection of facilities that meet Exeter's community, social, health, welfare, education, spiritual, cultural, leisure and recreation needs.
4. Policy CS6 of the Exeter Local Plan First Review (31 March 2005) (the Local Plan) refers to community halls, and states that development that would cause harm to the provision of community space in an area will not be permitted. The accompanying text to this policy sets out examples of where harm would not occur, and this includes where the continued use of the hall is no longer viable, or there is no demand for the facility or there are adequate alternative facilities in the area.
5. Policy DD23 of the publication version of the Development Delivery Development Plan Document (July 2015) (the DPD) concerns the protection of community facilities and has been drawn to my attention. However, I have little detail on the progress of the Plan which has not been adopted, and therefore I attribute the policy little weight.
6. Paragraph 92 of the Framework sets out the policy approach to providing the social, recreational and cultural facilities and services the community needs. While section (a) of paragraph 92 concerns plan making, it does clarify that a place of worship should be considered a community facility. I consider that the most relevant policy criteria in this case are (c) and (d) which indicates that decisions should guard against the unnecessary loss of valued facilities and services, and ensure that established facilities and services are retained for the benefit of the community.
7. The Buller Road Evangelical Church, located at 42-44 Buller Road, was closed in 2016 owing to a decline in attendances. The Council accept that the building as a place of worship for this particular denomination cannot attract a demand that makes it viable or worthwhile to continue. It is understood that the building was used by other groups as well and these uses at the site have also ceased with the closure of the building.
8. The information indicates that the site was marketed for a 6 week period in 2016 and that 73 viewings took place with 28 tenders submitted. An offer was accepted from a local church group but after 4 months the sale fell through. Being a charity, it appears that the owners were duty bound to sell for the highest price and subsequently an offer was accepted in February 2017.
9. I have taken account of the concerns of the Council regarding the marketing exercise and that the sale price was significantly in excess of the guide price. While it is said that most of the offers to purchase were on the basis of a future residential use, the information is not available to me of every person or group who made a tender, together with their intended uses of the building. This reduces the weight I can attach to this matter. Nevertheless, professional agents were employed to market the building and this led to a reasonable level of interest with resulting tenders and it is clear that the vendors favoured selling to another church group while that option was available. Overall, the evidence resulting from the marketing exercise lends moderate support to the proposition that there was not another community group or user available and able at that time to purchase the building for a community use.

10. I note the submissions regarding the Exeter Drama Company, however, some of the information appears to indicate that they have found alternative premises, while other information before me indicates that this may not be the case. This matter is not definitive as I have not received clear evidence direct from this group. Also, at the appeal stage, submissions have been received from the St Thomas Community Association Committee highlighting the need for community halls to assist with the holding of meetings in the area and indicating that the appeal premises could support a local community need.
11. The appellant has submitted an assessment of other community facilities within a 1km radius of the site and this is said to include halls for hire and places of worship (although I understand that the Emmanuel Church is in the process of conversion to residential use). The site is located in reasonable proximity to the city centre and overall there appears to be an adequate range of halls and churches available, albeit that many are outside this part of the city.
12. I have had regard to the recent submissions of need for the building in community use, however, I have not been presented with clear and detailed evidence direct from these community groups that they would be in a position to purchase the appeal premises, even if it was available. Again, the information on this issue is not definitive, but on the balance of information before me, I consider that there appears to be reasonable local access to other community facilities such that the loss of the building to community use would not cause material harm in this respect.
13. My attention has also been drawn to two other cases, at Emmanuel Church¹ and Moose Hall², where planning permission has been granted to convert these community facilities to residential accommodation. The Council appears to have taken a pragmatic approach regarding the likelihood and practicalities of continuing community use in these cases. It seems that there are some similarities between the planning issues raised in these other cases and the situation at Buller Road.
14. Looking at the practical issues at the Buller Road site, this location lies in an area where the roads have mainly residents' parking zones and double yellow lines, with only limited opportunities for the general public to park on the road side. While the site would be within walking distance for potentially a reasonable number of local residents, the parking situation could reduce the willingness or ability of some visitors to attend the site if the building was retained in a community use. Furthermore, the site is located in a predominantly residential area, with dwellings attached either side, and some community uses may have the potential to disturb the amenities of others. These are matters that, in my view, pull moderately in favour of a residential use of the appeal site which would be unlikely to lead to the same level of car parking demand and potential disturbance as a community use.
15. In terms of the requirements of paragraph 92 of the Framework, I have not been presented with substantial evidence that the facility is presently valued by local residents and indeed the building has been empty for some time. Conversion to residential use would not therefore result in the unnecessary loss of an established or valued local facility or service.

¹ Council ref 17/1662/FUL

² Council ref 17/1919/FUL

16. The building has a reasonably attractive façade that makes a positive contribution to the character and appearance of the street scene. The conversion of the building to a single dwelling would be a beneficial use which would enable the building to be maintained and its visual contribution to continue. Furthermore, the provision of a dwelling, albeit only one unit of accommodation, would be worthwhile in a Council area that cannot demonstrate a 5 year housing land supply of deliverable sites. These benefits afford moderate weight in favour of the scheme.
17. Taking all these matters into account, while I cannot be certain there is no community group or community use that would be able to afford and make use of the building, there has been an opportunity for that proposition to be tested during the marketing period and I am reasonably satisfied in that respect. There would also appear to be a mix of other community accommodation in proximity to meet most needs although I accept that this is disputed by local groups and residents. Furthermore, there are some practical issues which may make reuse of the site in community use less attractive and the provision of a further dwelling in this location would make a very small but positive contribution to the supply of housing. The combination of all these factors is such that the proposal, on the balance of the evidence before me, would not cause harm to the community space in the area and that there would be benefits resulting from the use of the building as a single dwelling.
18. It follows from this analysis, that I conclude that there is sufficient justification for the loss of the community facility on the site and that the proposal would not cause undue harm in this respect. Accordingly, the proposal would not conflict with Objective 6 and CP10 of the Core Strategy, Policy CS6 of the Local Plan and the Framework which seeks, amongst other things, that development that would cause harm to the provision of community space in an area will not be permitted.

Other Matters

19. I have taken into account all the representations from local residents and others. Issues regarding the potential amenity impacts and parking problems resulting from multi-occupancy in the future are noted. However, only a single dwelling scheme is before me and the merits of any alternative proposal would need to be considered at a future time. Any disturbance during building works would be a matter for the Council to investigate under other legislation were that to occur and would not be a reason to withhold permission. I have no reason to believe that the rear alterations, involving the removal of the rear addition and the creation of a smaller extension, would have a material impact on the living conditions of occupiers of the neighbouring properties.
20. The Flood Risk Assessment proposes a dwarf wall, and flood board in the opening, and I am satisfied that this should be effective in addressing any flooding issue. On the information available this wall and board need not be higher than the adjoining frontage walls within the street and therefore would not cause any harm to the character and appearance of the area.
21. The information indicates that the site lies within the recreational zone of influence for the Exe Estuary Special Protection Area (SPA) and Ramsar site and that the recreational impact from additional residences would be likely to affect the special qualities of the SPA.

21. Information indicates that this potentially adverse impact could be mitigated in line with the South-east Devon European Site Mitigation Strategy prepared by Footprint Ecology on behalf of East Devon and Teignbridge District Councils and Exeter City Council. This strategy is being funded through a proportion of the Community Infrastructure Levy (CIL) collected in respect of chargeable development. The Council has confirmed that the development would be liable for CIL and therefore the mitigation would be secured as part of the scheme. In these circumstances, when undertaking an Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations 2017, I am satisfied that the proposal would not significantly and adversely impact on the integrity of the SPA, alone or in combination with other schemes.

Conditions

22. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. The standard time limit is required and a condition specifying the approved plans is necessary in the interests of certainty.
23. A condition requiring that the front wall matches the texture and colour of the main building is necessary in the interests of the character and appearance of the area.
24. I note that many of the dwellings in the street have UPVC window frames and doors. However, the chapel building is distinct from these other buildings and a significant part of the character of the front elevation is formed by the timber framed windows and doors. In these circumstances, exceptionally, I consider that the removal of permitted development rights so as to retain these important features and control any replacements is necessary. I do not consider that the retention of the timber doors should adversely affect flood protection as the dwarf wall and flood board can address this matter.

Conclusion

25. Having regard to the above, and taking all other matters into account and subject to the identified conditions, I conclude that the appeal should be allowed.

David Wyborn

INSPECTOR