
Appeal Decision

Site visit made on 8 September 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2020

Appeal Ref: APP/Y1110/W/20/3253452

St Andrews Yard, Willeys Avenue, Exeter EX2 8EP

- 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 Graham Chivers of Riviera Equity Ltd against the decision of Exeter City Council.
 - The application Ref 19/1676/FUL, dated 27 November 2019, was refused by notice dated 17 March 2020.
 - The development proposed is demolition of existing single storey business premises and construction of 9no residential apartments along with onsite parking and associated landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing single storey business premises and construction of 9no residential apartments along with onsite parking and associated landscaping, on land at St Andrews Yard, Willeys Avenue, Exeter EX2 8EP in accordance with the application, Ref 19/1676/FUL, dated 27 November 2019 and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mr Graham Chivers of Riviera Equity Ltd against Exeter City Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this appeal is the effect of the proposed development upon the character and appearance of the area.

Reasons

4. The appeal site lies between a two storey end of terrace property and the mixed height development that forms Wellpark Apartments, albeit this development lies on the opposite side of Willeys Avenue. The appeal site is currently in use as a car sales business and contains a single storey building, in use as an office and workshop to support the existing business. The surrounding land use is predominately residential, mainly in the form of rows of brick built, two-storey terrace properties. Within the wider area, there are however a number of more recent developments where the overall height of

parts of the buildings are taller than the surrounding terraces. The site is triangular in shape, with the rear bounded by a railway embankment.

5. The proposal would involve the demolition of the existing building on site and the erection of a single building, which would be a mix of two and three storeys in height. It would contain nine apartments, along with parking, cycle parking and communal open space. The building would be finished in a mix of red and yellow brickwork, along with a slate roof.
6. The proposed building would be positioned in a gap within the street scene. The part of the building that would lie directly adjacent to the end terrace on Willeys Avenue would be two storeys in height, with the remainder of the building being taller, with a third floor accommodated within a mansard roof. Whilst the proposal would considerably increase the amount of built form on the site, it would not be significantly higher than the surrounding properties. Therefore, on this basis, the proposed development would be in keeping with the height and scale of adjoining and surrounding developments.
7. When viewed in the street scene, due to being of a similar height to surrounding developments, the proposal would be seen as a continuation of the existing row of terrace properties, before increasing in height adjacent to the existing railway embankment, the corner of Willeys Avenue and the larger development of Wellpark Apartments. It would therefore not represent a visually prominent or overly dominant form of development and, as a result, would not have a significant adverse effect upon the street scene.
8. To the front, the building would be set back from the footway edge, following a similar building line to the adjoining terrace properties. The front elevation of the building would be punctuated through the use of small projections that would provide visual interest to the elevations and respond to the design of the surrounding terrace properties. The building would be positioned towards the front of the appeal site, with space provided at the rear for a communal garden and car parking. This would provide both space around and separation between the proposed building and the adjoining row of terrace properties. On the basis of the design approach, the proposed development would therefore not constitute an over development of the site, with the resulting visual appearance within the townscape and the layout of the development, being sympathetic to, and in keeping with the existing design, layout and density that exists in the surrounding area.
9. For the above reasons, I conclude that the proposed development would not significantly effect the character and appearance of the area and, in this respect, the proposal would be in accordance with objective 9 and Policy CP17 of the Exeter Local Development Framework Core Strategy (2012), Policies DG1 (b, g, and h) of the Exeter Local Plan First Review (2005) and the Residential Design Guide SPD (2010) and Paragraphs 127 and 130 of the National Planning Policy Framework (the Framework). These policies, amongst other things, seek to ensure new development conserves the local character of an area.

Other Matters

10. I acknowledge the concerns raised by local residents in relation to highway issues, however I have no technical evidence to substantiate this and there is no evidence that highway safety would be compromised. Furthermore, I note

that the Council's Highway Officer did not object to the proposals and the Council did not conclude that they would amount to reasons to justify withholding planning permission. Therefore, I find that the development would not materially harm highway safety.

11. I note the comments raised in relation to the potential impact of the proposal upon existing biodiversity. However, there is no substantive evidence that there would be any adverse effect on biodiversity issues within the area as a result of the proposal.
12. Concerns have also been raised with regards to the potential for noise during construction and the effect of construction vehicles on surrounding roads. I acknowledge that construction would cause some disruption, but this would be temporary and could be mitigated by a Construction Method Statement. I also note the proximity of the proposed development in relation to the railway line, however I note that the Council's Environmental Health Officer raised no objections, subject to the implementation of sound attenuation in accordance with the submitted assessment. Having reviewed this information, I have no reason to disagree with this position and consider it would be unreasonable to withhold planning permission on these grounds.
13. Comments have been raised by local residents, with regards to the impact of the proposal upon the living conditions of surrounding residents. During my site visit, I observed the relationship of the proposed development with the rear gardens of neighbouring residential properties. The gardens of the adjoining properties are narrow, but relatively long, extending down to the railway embankment. Part of the flank wall of the proposed development would extend beyond the rear wall of these existing properties. Whilst this would result in some impact, due to the size and orientation of the gardens in relation to the proposal, and the overall size of the proposed rear projection, it is not considered that this would give rise to significant overbearing effects to warrant the withholding of planning permission for these reasons alone.
14. Due to the position and orientation of the proposed rear windows and balconies, views from these towards existing dwellings would be from oblique angles, such that there would be no significant loss of privacy to surrounding residents.
15. The submitted Unilateral Undertaking aims to secure financial contributions towards the provision of education spaces arising from the proposed development. Policy CP18 of the Core Strategy identifies that developer contributions will be sought to ensure that the necessary physical, social, economic and green infrastructure is in place to deliver development. On the evidence before me, it appears that the demand for additional education provision arises from the development. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations set out in the Framework. In these circumstances, I consider that the measures in the Undertaking are necessary, related directly to the development and fairly related in scale and kind.
16. It is accepted by the parties that the Council are presently unable to demonstrate a 5 year land supply. Paragraph 11 of the Framework requires decisions to be made in accordance with the presumption in favour of sustainable development. As it has been concluded that the proposals accord

with the relevant development plan policies, there is no requirement, in this instance to consider the proposal against the so-called tilted balance.

Conditions

17. The conditions suggested by the Council have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. A standard implementation condition, along with a requirement to implement the scheme in accordance with the approved plans is necessary.
18. Considering the site's location, it is appropriate to require the provision of archaeological mitigation measures in the form of a written scheme of investigation. To protect the living conditions of local residents and to ensure that the proposal would not have any unacceptable impacts upon highway safety, it is necessary to attach a condition requiring the submission of a Construction Method Statement.
19. It is necessary, given the previous use of the site, to attach a condition requiring the submission of ground investigation works. To encourage the use alternative modes of travel, it is necessary to require the submission of details of the proposed secured covered cycle storage.
20. In the interest of sustainable development and reducing CO2 use, it is necessary to attach a condition requiring the completion of the necessary SAP calculations. To ensure the safeguarding of the character and appearance of the area, a condition is necessary with regards to the provision of external materials and the submission of a landscaping scheme.
21. To protect highway safety, it is appropriate to attach a condition to ensure the proposed vehicle turning area is provided, prior to the occupation of the dwellings.
22. To protect the living conditions of future residents, it is necessary to attach a condition requiring the measures identified in the acoustics report to be implemented. In the interests of ensuring no harm to matters of biodiversity, it is appropriate to attach a condition to ensure that the provision of details for nesting swifts is submitted and approved.

Conclusion

23. I conclude, for the reasons outlined above, that the appeal should be allowed subject to the identified conditions.

Adrian Hunter

INSPECTOR

Schedule of Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
2. The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details received by the Local Planning Authority on 20 February 2020 (including dwg.nos.) 553 SK 30 rev f; 31 rev b & 32 rev c).
3. No development related works shall take place within the site until a written scheme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include on-site work, and off site work such as the analysis, publication, and archiving of the results, together with a timetable for completion of each element. All works shall be carried out and completed in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.
4. No development (including ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - a) The site access point(s) of all vehicles to the site during the construction phase.
 - b) The parking of vehicles of site operatives and visitors.
 - c) The areas for loading and unloading plant and materials.
 - d) Storage areas of plant and materials used in constructing the development.
 - e) The erection and maintenance of securing hoarding, if appropriate.
 - f) Wheel washing facilities.
 - g) Measures to control the emission of dust and dirt during construction.
 - h) No burning on site during construction or site preparation works.
 - i) Measures to minimise noise nuisance to neighbours from plant and machinery.
 - j) Construction working hours and deliveries from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
 - k) No driven piling without prior consent from the LPA.

The approved Statement shall be strictly adhered to throughout the construction period of the development.

5. No development shall take place on site until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works

necessary, have been agreed in writing by the Local Planning Authority. The building(s) shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with together with confirmation that no unacceptable risks remain.

6. Prior to commencement of the development, details shall be submitted to the Local Planning Authority of secure covered cycle parking provision for the development. Development shall not be commenced until such details have been agreed in writing by the Local Planning Authority and, prior to occupation, the cycle parking shall be provided in accordance with the submitted details.
7. Before commencement of construction of the development hereby permitted, the applicant shall submit a SAP calculation which demonstrates that a 19% reduction in CO2 emissions over that necessary to meet the requirements of the 2013 Building Regulations can be achieved. The measures necessary to achieve this CO2 saving shall thereafter be implemented on site and, within 3 months of practical completion of any dwelling, the developer will submit a report to the LPA from a suitably qualified consultant to demonstrate compliance with this condition.
8. Samples of external materials shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.
9. A detailed scheme for landscaping, including the planting of trees and or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority and no dwelling or building shall be occupied until the Local Planning Authority have approved a scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required together with the timing of the implementation of the scheme. The landscaping shall thereafter be implemented in accordance with the approved scheme in accordance with the agreed programme.
10. In the event of failure of any trees or shrubs, planted in accordance with any scheme approved by the Local Planning Authority, to become established and to prosper for a period of five years from the date of the completion of implementation of that scheme, such trees or shrubs shall be replaced with such live specimens of such species of such size and in such number as may be approved by the Local Planning Authority.
11. No part of the development hereby approved shall be brought into its intended use until vehicular spaces and turning area as indicated by Drawing Number 553 SK30 REV F have been provided and maintained in accordance with details that shall have been submitted to, and approved in writing by the Local Planning Authority and retained for that purpose at all times.
12. The development as built shall achieve at least the level of sound insulation specified in the submitted report (Acoustic Associates South West, 31

August 2018, Environmental Noise Assessment for New Flats, St Andrews Yard), including the provision of an attenuated mechanical air supply.

13. Prior to the occupation of the building hereby approved, details of provision for nesting swifts shall be submitted to and approved in writing by the Local Planning Authority in consultation with the RSPB. Upon written approval of the details, the scheme shall be fully implemented as part of the development and retained thereafter.