



Appeal Decision

Site Visit made on 18 October 2021

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2021

Appeal Ref: APP/Y1110/W/21/3278271

13 Masefield Road, Exeter EX4 8HA

- 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 Jordan Abdey against the decision of Exeter City Council.
 - The application Ref 20/1412/FUL, dated 25 October 2020, was refused by notice dated 19 February 2021.
 - The development proposed is the construction of a dwellinghouse.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of a dwellinghouse at 13 Masefield Road, Exeter EX4 8HA in accordance with the terms of the application, Ref 20/1412/FUL, dated 25 October 2020, and subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - the effect of the proposal on the living conditions of the occupants of 22 Austen Close, with particular regard to any overbearing, overshadowing and/or outlook effects and the relationship between properties, and
 - whether or not the development would create acceptable living conditions for future occupiers of the proposed dwelling having particular regard to outlook and outdoor amenity space.

Reasons

Effect on the living conditions of the occupants of 22 Austen Close

3. Masefield Road forms part of an estate of mainly semi-detached and terrace, two storey properties laid out in a general grid pattern of roads. The properties are usually set back from the footway with some spacing between blocks of buildings and there are areas of landscaping both within gardens and communal green areas.
4. 13 Masefield Road is a corner property with a roughly triangular shaped plot. There is a reasonable amount of existing space to the side and the proposed dwelling, if constructed, would still retain an adequate spacing to 22 Austen Close. The proposed arrangement of the new building and existing buildings would not be out of character with the general positioning and separation of other buildings found in some parts of the adjoining roads and some other corner plots.

5. The rear of the proposed dwelling would face towards the fairly modestly sized, triangular shaped rear garden of No 22. However, the rear elevation of the dwelling would only have a bathroom window at first floor level, which could be obscured glazed. The ground floor of the proposed dwelling would be set down in its plot relative to No 22 and therefore the proposed ground floor windows and doors could be largely obscured by planting or a fence along the boundary line with No 22, if required. In these circumstances there would not be a material level of overlooking from the proposed property into the garden of No 22 and the relationship between properties in this respect would be acceptable.
6. The rear elevation of the proposed dwelling would be somewhat bland because of the limited fenestration. However, it would be at the rear and, with the angle of the boundary between the proposed dwelling and No 22, the occupants of No 22 would be adequately separated from the development, albeit there would be a pinch point at the corner of the dwellings. Importantly, the cross section shows that the ground floor level of the proposed dwelling would be set down lower than that of No 22. With the rear roof of the proposed dwelling sloping away from the rear garden of No 22, in combination with the general spacing and levels, the proposed dwelling would not result in an overbearing impact for the occupants of No 22, either when they were in their house or garden.
7. At the appeal stage a Daylight and Sunlight Report has been submitted. This report concludes that the proposed dwelling would have a low impact on the light which would be received to No 22, both within the house and garden, and that the proposed development would sufficiently safeguard the daylight and sunlight amenity of the neighbouring properties. I afford the findings of this Report substantial weight. Furthermore, having visited the site I consider that the proposed dwelling would be sited so as not to unduly affect the present levels of daylight and sunlight to No 22.
8. In terms of outlook, as the rear windows of No 22 face towards its garden, and the proposed dwelling would be to the side, there would not be a materially harmful effect on the outlook from the main rear windows for the occupants of No 22. The new dwelling would be clearly visible from the rear garden of No 22 but there would still be garden spaces around the rear of No 22 and the presence of buildings are already part of the surroundings. The outlook from the garden of No 22 for the occupants of this property would not be unduly affected in these circumstances.
9. In the light of the above analysis, I conclude that the proposal would not unacceptably harm the living conditions of the occupants of 22 Austen Close. In particular, the proposed dwelling would create a satisfactory relationship between properties that would not result in an unacceptable degree of overbearing, overshadowing or outlook effects. It follows, in this respect, that the scheme would comply with Objective 9 and Policy CP17 of the Exeter City Council Core Strategy 2012 (the Core Strategy), saved Policies H2 and DG4 of the Exeter Local Plan First Review (adopted 2005) (the Local Plan) and Chapter 7 of the Council's Residential Design Supplementary Planning Document (adopted 2010) (the Residential Design SPD) which seek, amongst other things, that residential development should be at the maximum feasible density taking into account site constraints and impact on the local area.

10. The Council has also drawn attention to the policies of the emerging Exeter City Council Development Delivery Plan 2015. This Plan has yet to be adopted and this reduces the weight that I can attach to its policies. In any case, the scheme would meet with the requirements of Policy DD13 of this Plan as the development would not result in unacceptable harm to the amenity of neighbouring residents.

Whether or not the development would create acceptable living conditions for future occupants

11. The proposed dwelling would have back, front and side windows and doors which would face towards garden spaces and the occupants of the proposed dwelling would be provided with an acceptable outlook.
12. Policy DG4 of the Local Plan requires that residential development should ensure a quality of amenity which allows residents to feel at ease within their homes and gardens. The supporting text to Policy DG4 of the Local Plan, and the accompanying details in the Residential Design SPD, explains that private garden space may vary in size but should not normally be smaller than 55sqm.
13. In this case, the proposed rear garden space would be about 35sqm. It would be necessary to step up to this area and the triangular shape would pose some limitations on activities. Nevertheless, the area could provide a generally private and useable garden space. Indeed, the size and shape would be similar to the rear gardens of some other corner plot houses in the vicinity, including No 22.
14. The proposed dwelling could additionally be provided with a side, external amenity area and this would be a generally level and convenient space near the dwelling. The plans show patio doors to the side elevation which would allow access from the living room to any side garden area. I saw at my site visit that, in similar circumstances, occupiers of some other corner plots had created private side garden spaces bounded by hedges and other planting. The external appearance of these garden spaces did not appear out of place because of the soft landscaping and the avoidance of fenced boundaries to the frontage areas. Indeed parts of the side and front boundaries of the proposed plot for the dwelling have established hedges that, if retained, could partially screen this side amenity space.
15. With a suitable soft landscaping scheme that avoided prominent fences, a side garden area could be formed to provide a reasonably private and usable garden area for future occupants. This would complement the rear space, such that the two garden areas, albeit separated, would be fairly pleasant spaces that cumulatively could meet the space standard. This would be sufficient for future occupants to feel at ease within their home and garden as required by Policy DG4 of the Local Plan.
16. For these reasons, I conclude that the scheme would create acceptable living conditions for future occupiers of the proposed dwelling. Accordingly, the development would comply with Objective 9 and Policy CP17 of the Core Strategy, saved Policies H2 and DG4 of the Local Plan, emerging Policy DD13 of the Development Delivery Plan 2015 and Chapter 7 of the Residential Design SPD which seek, notably in respect of this main issue, that development provides good living conditions and standards of amenity for future occupiers of the development.

Other Matters

17. The site is located within the zone of influence for recreational impacts that could accrue from residents of new housing in relation to the Exe Estuary and East Devon Pebblebed Heaths Special Protection Areas. The evidence indicates that the required mitigation to offset these recreational impacts can be addressed by compliance with the details in the South East Devon European Site Mitigation Strategy. The required payment to provide the appropriate mitigation would be collected via the Community Infrastructure Levy. I am therefore satisfied that suitable mitigation would be secured and the scheme, either alone or in combination with other projects, would not adversely affect the integrity of these habitats sites.

Conditions

18. I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. I have amended the wording where necessary in the interests of clarity and precision. The statutory time limit is required and a condition specifying the approved plans is necessary in the interests of certainty.
19. A condition is necessary to, exceptionally, remove permitted development rights for the insertion of any first floor windows to the rear elevation to control any potential overlooking from such windows, if proposed in the future. Similarly a condition is necessary to require the obscure glazing of the rear bathroom window to prevent overlooking of the properties to the rear.
20. Conditions requiring the submission and agreement of the details of external materials, and hard and soft landscaping, are necessary in the interests of the visual amenities of the area. A condition is necessary to control construction hours in the interests of protecting the amenities of occupants of adjoining properties. A condition is necessary to ensure the provision and retention of secure bicycle storage in the interests of facilitating sustainable transport options.
21. Finally, there is an inconsistency on Plan 20-0801-01 Rev P3 between the first floor layout plan and the elevations. The layout plan incorrectly shows a rear window to Bedroom 1. This window has been moved and is now shown to the side elevation as per the elevation drawing. A condition is necessary to ensure that the works take place in accordance with the elevations, and not the floor layout plan, to avoid overlooking of the adjoining property.

Conclusion

22. For the reasons given above, the scheme would comply with the development plan when considered as a whole and other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Accordingly, and taking all other matters into account, I conclude that subject to the specified conditions, the appeal should be allowed.

David Wyborn

INSPECTOR

Schedule of 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: Proposed site plan, Proposed plans and elevations 20-0801-01 Rev P3, Proposed elevations 20-0801-04 Rev P2 and Proposed section to 22 Austin Close 20-0801-06 Rev P1
- 3) 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), no first floor windows, other than those expressly authorised by this permission, shall be constructed to the rear elevation.
- 4) The dwelling hereby permitted shall not be occupied until the first floor bathroom window in the rear elevation has been fitted with obscured glazing. Once installed the obscured glazing shall be retained thereafter.
- 5) No development above slab level shall take place until details/samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details/samples.
- 6) No development above slab level shall take place until details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details shall include the means of enclosure, hard surfacing, any vehicle layouts and details of planting. The landscaping works shall be carried out in accordance with the approved details. The hard landscaping works shall take place before the first occupation of the dwelling hereby permitted. The soft landscaping including all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) No site machinery or plant shall be operated, no process shall be carried out and no demolition or construction related deliveries received or dispatched from the site except between the hours of 8am to 6pm Monday to Friday, 8am to 1pm Saturday and at no time on Sundays, Bank or Public Holidays.
- 8) The dwelling hereby approved shall not be occupied until secure cycle parking facilities for residents have been provided in accordance with details that shall previously have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the approved cycle parking facilities shall be retained for that purpose at all times.
- 9) Notwithstanding the position of the window to Bedroom 1 as shown on the first floor plan of Plan 20-0801-01 Rev P3, the only window to Bedroom 1 shall be constructed to the side elevation as shown on the rear and side elevations of Plan 20-0801-01 Rev P3 and not to the rear elevation.

End of Schedule