



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: 07 December 2021

Appeal Ref: APP/U1105/W/21/3277883

18 Victoria Road, Exmouth EX8 1DL

- 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 Sasha Turner against the decision of East Devon District Council.
 - The application Ref 20/1497/FUL, dated 10 July 2020, was refused by notice dated 30 March 2021.
 - The development proposed is the demolition of existing garage and construction of a 1 bedroom dwelling to the rear of 18 Victoria Road, Exmouth, Devon, EX8 1DL.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 02 November 2021.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the character and appearance of the area,
 - the effect of the proposal on the living conditions of the occupiers of adjoining properties, and
 - whether the proposal represents an acceptable form of development having regard to its flood zone location, the provisions of the development plan and the National Planning Policy Framework (the Framework).

Reasons

Character and appearance

3. 18 Victoria Road is a fairly substantial terrace property that fronts onto Victoria Road. The rear elevation of No 18, and those of the attached properties, also face Elm Grove and are quite prominent within the adjoining street scenes. In these rear views the sloping clay tile roofs, gables and chimneys of these buildings combine with other buildings on the adjoining street corners to form a fairly pleasant and reasonably cohesive character to the vicinity.
4. The rear land associated with these properties, towards this end of Elm Grove, have reasonably low rise structures and these include walls and flat roofed extensions and garages. While these low rise features are not of particular

- architectural merit in themselves they are beneficial by allowing the rear of the main buildings to be visible and provide some visual space to this corner area.
5. Further along Elm Grove there are buildings that front directly onto the street, some of which are two and more storeys in height. More generally there is a mix of architectural styles, including the contemporary Q Club flat redevelopment which is at the other end of Elm Grove
 6. The appeal proposal would introduce a single bedroom unit of accommodation at first floor level where there is presently a parking and garage area at the rear of the appeal building and partly to the rear of 20 Victoria Road. The building has been designed to minimise its bulk and as a piece of stand-alone architecture it has merit. However, in the context of this site, the constraints imposed by the space available and the position of the adjoining buildings, the development would appear as unduly prominent directly in front of the rear elevation of parts of the adjoining buildings. Its contrasting form and appearance would draw the eye against the more traditional character and proportions of the rear elevations. Furthermore, the structure would erode a meaningful section of the visual space above this presently low rise rear land and the result would be a cramped built form unacceptably close to the rear of the existing buildings.
 7. In this way the scheme would not meet with the Framework policy requirements that development should be sympathetic to local character and add to the overall quality of the area.
 8. I have carefully considered the photomontages and the justification for the design, bulk and materials of the proposal. There are examples elsewhere of such elements, although usually in a different context and/or with a different scale of development¹. However, that presence elsewhere and the other residential permissions which have been granted by the Council in the area would not justify the visual harm that would be caused to the street scene views from the development, in particular, from parts of Elm Grove, Imperial Road and Victoria Way. Also even though there are taller buildings further along Elm Grove these again in themselves do not justify the appeal proposal which would appear cramped and an overdevelopment of this modest rear area, out of character with this section of the street scene.
 9. Accordingly, I conclude that the proposal would harm the character and appearance of the area and thereby conflict with Policy D1 of the East Devon Local Plan 2013-2031 (the Local Plan) and Policies EN1 and EB2 of the Exmouth Neighbourhood Plan 2018-2031 (the Neighbourhood Plan) which seek, amongst other things, that development respects the key characteristics and special qualities of the area.

Living conditions

10. The scheme would introduce a 2 storey structure within this section of the land adjoining Elm Grove. There are residential properties surrounding the site and objections have been received from some occupiers because of the considered adverse impact that the development would have on their amenities.

¹ I have also taken into account the details of the development resolved to be permitted to the south of 18 Victoria Road on the junction of St Andrews Road and Imperial Road.

11. The development would be mainly positioned behind No 18. However, because of the angle of the building and the shape of the appeal site it would also be within some views from an adjoining first floor window of 16 Victoria Road. As a consequence of its position, the rear wall of the first floor of the proposed development would be readily apparent from some of the rear windows of Nos 16 and 18. The bulk and width of this proposed wall, in such proximity to these windows, would have an overbearing effect on the living conditions for occupants when these rooms were in use.
12. No 18 has a modest rear garden area that is mainly located alongside and to the rear of the back of the building. A fence and timber gates separates this external amenity area from the present parking area. The development would introduce a blank wall at first floor level which would bound part of this amenity space. The height and position of this part of the proposed development would have quite an intimidating presence and would detract to a fairly significant extent from the enjoyment that the outdoor space could provide for the occupants of No 18. I appreciate that No 18 is the appellant's property but that does not justify a development which would provide unacceptably poor living conditions for present and future occupants.
13. The development would also be readily apparent from a section of the external space at 20 Victoria Road, which is a building divided into flats. The end of the outside space appeared at my site visit to be in use, in part, as a bin storage area and this space was reasonably small in area with the main external amenity space further along the side of No 20. The two storey side wall of the development would be set back a little way from this joint boundary at the end of the neighbouring properties external space. This arrangement and the related circumstances would be sufficient to maintain satisfactory living conditions for the occupants of No 20 when they were using their external amenity space.
14. 57 Imperial Road is a corner plot dwelling with a side elevation facing Elm Grove. The side elevation of this property includes a series of windows positioned across three storeys. Views from the front windows of the proposed first floor accommodation would look across the road directly towards the side windows of No 57. However, the side windows of No 57 are already open to general views from the adjoining roads, partially screened by a small tree and some of the windows are obscured or colour glazed. Taken together with the separation of the appeal proposal from No 57, the windows from the proposed accommodation would not unduly overlook this adjoining property and its habitable rooms such as to materially affect the living conditions of these existing occupants.
15. In terms of the private garden of No 57, there would be views from the windows of the proposed first floor accommodation towards this external area but they would in part be obscured by the brick boundary wall. There would also be some separation between the windows and the garden area. In these circumstances, the proposed relationship between properties would not result in a material level of overlooking in this respect.
16. In the light of the above analysis, I conclude that the proposal would have an unacceptable effect on the living conditions of the occupiers of some adjoining properties. In this respect the scheme would conflict with Policy D1 of the Local Plan and Policies EN1 and EB2 of the Neighbourhood Plan which seek, notably,

that development will only be permitted where it would not adversely affect the amenity of occupiers of adjoining residential properties.

Flood risk

17. The site lies within Flood Zone 3 and the evidence indicates this area is potentially at risk of flooding from the estuary. The information in the Flood Risk Assessment indicates that this area of Exmouth has flooded in the past, although the Environment Agency has highlighted that the newly constructed tidal flood defence scheme for Exmouth provides a high level of protection to the site.
18. As the site lies within Flood Zone 3, and residential development is proposed, it is necessary to undertake a Sequential Test as required by the Framework. I have carefully considered all the submissions from the appellant in relation to flood risk including that the scheme would not increase flooding elsewhere. The area of search for alternative development opportunities focuses in a general area within and around the town centre and this built up area includes residential, commercial and other service areas. This search area seems reasonable given the accessibility benefits and regeneration aims of this general location. However, the Sequential Test Report focuses mainly on larger development sites within this area, which would not appear to be directly comparable to the provision of a small single unit of accommodation. Furthermore, this area of search is not entirely within Flood Zone 3 and consequently there may be opportunities for the provision of small scale accommodation on sites within the search area that need not be within a zone of higher flood risk. Accordingly, some such areas outside Flood Zone 3 appear to be in proximity to the town centre and therefore could provide the accommodation in an accessible location and which would assist with the regeneration aims of the wider town centre area.
19. The habitable accommodation would be on the first floor. The calculations demonstrate that this part of the living space would not be liable to flood and would be safe for its lifetime. However, the access in and out of the building appears to be vulnerable in the event of a flooding incident and therefore the location is not entirely optimal in terms of flood risk. Given my concerns with the Sequential Test Report set out above, it seems that it has not been adequately demonstrated that there could not be reasonably available sites appropriate for the proposed development in an area with a lower risk of flooding. Accordingly, I conclude that the Sequential Test, based on the information before me, has not been met and it is not necessary to consider the Exception Test.
20. In coming to this conclusion I have placed due regard on advice of the Environment Agency who raised no objection and the advice in the Planning Practice Guidance (the Guidance) in relation to flood risk. I note that the Guidance explains that it is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances of any given case.
21. For the reasons explained, I am not satisfied that the scheme has met with the requirements of the Sequential Test. I therefore conclude that the proposal

would not represent an acceptable form of development having regard to its flood zone location. In this regard, the scheme would conflict with Policy EN21 of the Local Plan and the Framework which set the approach to the location of development having regard to potential flood risk.

Other Matters

22. An agreement under s111 of the Local Government Act 1972 has been submitted, together with an associated payment, to seek to mitigate the effects of the likely increased recreational pressure from occupants of the proposed unit of accommodation on the Pebblebed Heaths and Exe Estuary Special Protection Areas (the SPAs). In all likelihood this would mitigate those impacts on the SPAs in accordance with the agreed strategy. However, given my overall conclusions I have not needed to consider this matter further.

Planning Balance and Conclusion

23. The proposal would provide a small boost to housing supply on a windfall site and would make effective use of the land. The scheme could be delivered by a small builder adding to the overall mix and offer of housing in the area. There would be economic and social benefits to the area during construction and in subsequent occupation. The site would be located in an accessible location with good access to services and facilities. However, as only one additional unit of accommodation would be provided I attribute the cumulative benefits of the proposal limited weight.
24. On the other hand, the scheme would harm the character and appearance of the area, not maintain acceptable living conditions for some adjoining occupants and be sited in a location that would not meet with the strategy to minimise flood risk. I attribute this combined harm substantial weight and it would not be outweighed by the benefits of the scheme.
25. For the reasons given above, there are no material considerations that indicate the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR