



Appeal Decision

Site visit made on 17 January 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2023

Appeal Ref: APP/U1105/W/22/3303990

Chestnuts, 65 Salterton Road, Exmouth EX8 2EJ

- 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 D Crocker against the decision of East Devon District Council.
 - The application Ref 21/0103/FUL, dated 28 July 2020, was refused by notice dated 3 March 2022.
 - The development proposed is demolition of existing buildings and construction of 9 no. apartments with associated parking, cycle and bin stores and creation of new vehicular access onto Salterton Road.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and construction of 9 no. apartments with associated parking, cycle and bin stores and creation of new vehicular access onto Salterton Road at Chestnuts, 65 Salterton Road, Exmouth EX8 2EJ in accordance with the terms of the application, Ref 21/0103/FUL, dated 28 July 2020, subject to the conditions set out in the Annex attached to this decision.

Preliminary Matters

2. The proposed development has been amended during the planning application process resulting in, amongst other changes, the removal of a dwelling house as originally described within the application form. The description of development in the banner above is therefore taken from the Council's decision notice and the appeal form which accurately describes the proposed development.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on the living conditions of neighbouring occupiers of Bronte Court and 67 Salterton Road with regard outlook, natural light and privacy.

Reasons

Character and appearance

4. The appeal site is located to the north of Salterton Road. The surrounding area features a mix of residential properties including developments of flats and

large detached dwellings set well back from the highway in spacious grounds which contributes to the character of the area. The existing property is a large detached two storey building.

5. Although there is a mixture of architectural styles within the surrounding area, some common features are evident which contribute to the distinctiveness of the area and a local vernacular. Such architectural features include steeply pitched roofs, road facing gables, pitched roof dormers and hipped roofs. Furthermore, the palette of materials in the area features significant amounts of red brick and render.
6. The Avenues Design Statement (ADS) dates from 2005 and is referenced within the Exmouth Neighbourhood Plan (ENP). Despite a number of developments that have occurred since the drafting of the ADS, my observations were similar to that within the ADS, this being that the character of the area is a product of a mix of factors including the layout of roads, landscaping, predominant building materials, size of properties and their varying elevations and relationship of buildings to space.
7. The proposed development would take the form of a 2.5 storey apartment block with rooms in the roof. The proposed ridgeline would not exceed that of the existing building, aside from the ridge of a gable feature to the south western side of the building. The proposed building would also be sited within a similar footprint to the existing building, and visually maintain the existing building line of properties along the northern side of Salterton Road.
8. The predominant architectural features of the proposed development clearly references those architectural features found elsewhere in the local area. The scale of the building, road facing gable, location within the site, combined with the use of red brick, render and some composite cladding under a tiled roof would not appear out of place in the local area and would sit comfortably within the street-scene.
9. Whilst some elements of the design are contemporary, notably the quantum of glazing to the front elevation, there are examples of similar design solutions elsewhere on Salterton Road such as Woodbury Court, and these elements do not detract from the overall appearance of the proposed development which does reinforce the local distinctiveness of the area, thereby positively contributing to the character and appearance of the area.
10. I observed that the existing car parking and bin storage area to the front of the property is clearly visible from the highway, as is the case with a number of parking areas to the fronts of properties along Salterton Road. The proposal would result in the number of carparking spaces to the front increasing. However, I note that the proposed carparking area would utilise a grasscrete surface, incorporate landscaping to the frontage, and also a reduced ground level. While vehicle parking in this area would still be clearly visible, I find that the measures in combination would help limit the visual impact of the car parking, with the resulting car parking area not appearing any more prominent or unduly intrusive than the existing arrangement, thus maintaining the character of the area.
11. A Horse Chestnut tree within the site is subject to a Tree Preservation Order, and I note concerns raised from third parties in relation to removal of vegetation at the site. The Council's Tree Officer has considered the

arboricultural information submitted within the application and hasn't raised any objections. Although the submitted information has not been updated following amendments of the proposal to remove the detached dwelling to the rear, revised information can be secured by condition. In combination of the tree protection measures and landscaping scheme, the proposed development will not result in the loss of trees or vegetation to either the front or back of the site that would have an unacceptable impact on the appearance of the area.

12. Consequently, I conclude on this main issue that the proposed development would not appear incongruous and would not adversely affect the character and appearance of the area. As such, it would accord with Strategy 6 and Policy D1 of the East Devon Local Plan 2013-2031 (LP), as well as Policy EB2 of the ENP. These seek, amongst other things, for development to be of high-quality design, compatible with, and respecting the character of the site and its surrounding building styles. There would also be no conflict with the overarching aims of the National Planning Policy Framework (Framework) or the ADS which both require, amongst other things, good design that is visually attractive as a result of good architecture and sympathetic to local character including the surrounding built environment.

Living conditions

13. Although the proposed development would be located in a similar location within the appeal site to the existing building, the proposed building would have a greater bulk and massing than that of the existing building, particularly the side elevations.
14. Bronte Court is located to the southwest of the appeal site and is a large 3 storey development of apartments. I observed that the side elevation of Bronte Court facing the appeal site features windows at ground, first and second floor levels. The closest side elevation of Bronte Court to the appeal site is separated from the appeal site by an access road leading to a parking area, and a brick wall and mature planted boundary.
15. Although the footprint of the proposed development is further away from the boundary than the existing building, the proposal will result in a 2.5 storey element facing the flank wall of Bronte Court. This flank wall of Bronte Court is stated to be approximately 10.5 metres from the proposed development at its nearest point.
16. Despite the appeal site ground level being elevated above the ground level of Bronte Court, the eaves height of the proposed development would be similar to that adjacent at Bronte Court, with the steep pitch roof reducing the bulk of this element of the proposed development. Combined with the distance from the boundary, overall distance to Bronte Court, and retention of existing boundary vegetation, I find that the proposal would not appear over-bearing or over-dominant from the neighbouring apartments. Furthermore, due to the spatial relationship, distance, eaves heights and roof design there would be no significant impact on light.
17. I am aware that amendments have been made during the application process to the design of the proposal in response to concerns raised regarding privacy by third parties. The position, and use, of high-level windows and obscure glazing and a balcony privacy screen to the south-west elevation would prevent any direct overlooking of windows within Bronte Court. These can be secured

through an appropriately worded condition. The proposal would not therefore result in any significant overlooking or impact on neighbouring occupiers' privacy.

18. I also observed at my site visit the relationship of the appeal site and neighbouring dwelling, 67 Salterton Road (67) to the northeast. The existing building on the appeal site is reasonably close to the boundary with 67, with the ridge height of the existing building being taller than that at 67, with a gable facing the boundary emphasising the height differential when viewed from the rear garden of 67. Although a further projection of the existing building runs alongside the boundary, this has minimal impact on occupiers of 67 due to its single storey character.
19. The majority of the proposed development would be sited slightly further away from the boundary than the existing, with the rear section projecting into the rear garden in single storey form, increasing in height further away from the boundary with 67. Both the single storey and 2 storey building forms feature hipped roofs. In combination between the varying heights of differing parts of the building, and hipped roofs, the design solution successfully limits the bulk and massing of the proposed development when viewed from 67. Therefore, even if existing planting were to be removed along the boundary with 67, the proposed development would not appear over dominant or overbearing and given the location of proposed windows, would not result in any significant additional overlooking.
20. A bin store is proposed to the front of the development adjacent a cycle store. It is noted that there are concerns this would result in a detrimental impact on the living conditions of the occupiers of 67 due to noise and odour. The location of the bin store indicated on the proposed plans is a sufficient distance from the neighbouring property to limit any potential impacts, with the bin store doors opening toward the highway. A planning condition can be imposed to ensure that the final design details are appropriate.
21. Given the proximity of the appeal site to neighbouring residential units, there is a potential for an impact on living conditions during the construction phase. However, a Construction and Environmental Management Plan (CEMP) can be secured through the imposition of a planning condition to ensure the living conditions of neighbouring and future occupiers are protected from any associated noise, air, water and light pollution.
22. Consequently, I conclude on this main issue that the proposed development would not have a significant detrimental impact on neighbouring occupiers living conditions. The proposal therefore accords with LP Policy D1, which requires, amongst other things, development to not adversely affect living conditions of occupiers of adjoining residential properties. It would also be consistent with the provisions of the Framework which seek to provide high standards of living conditions for existing and future users.

Other Matters

23. While I note local concerns relating to the access and accidents in the vicinity of the appeal site, the County Highway Officer has not raised any objection to the proposal. The proposed access would be to the south of the existing entrance, and although I observed Salterton Road is a busy highway, vehicle speeds were not high and sufficient visibility splays are proposed. While I

acknowledge that what I saw was only a snapshot in time, it accords with the Highway Officer's findings. Furthermore, a condition can be imposed requiring the existing access to be stopped up, given its proximity to the proposed new access. On the evidence before me, I see no reason to disagree with the County Highway Officer in this matter.

24. Concerns have also been raised in relation to the parking provision proposed. Given the location of the appeal site close to facilities, services and public transport modes, the number of parking spaces provided, acknowledging the lack of a dedicated disabled space, is appropriate given the scale of development and policy requirements. I note the sizes of the spaces and the potential manoeuvring difficulties highlighted by third parties. No objections have been raised by the County Highway Officer and while I note the lack of on-site turning area, and restricted manoeuvring space, particularly in relation to parking space 10, I have no evidence before me to indicate that this would lead to any wider highway safety concerns given the visibility splays and character of traffic movements on the highway.
25. Reference has been made by the parties to a previous appeal decision at this site made on the 3 November 2006, although I have not been provided with the full detail. Notwithstanding the findings of that Inspector, due to the age of that appeal decision it predates the current policy context, and relates to a differing scheme. Moreover, the current appeal proposal has its own circumstances, and I have determined it on its own merits.
26. There are representations suggesting that Electric Vehicle charging points are required. However, these matters are covered by building regulations and therefore it is not necessary to impose a condition requiring such matters.
27. Concern has been raised that the proposal does not provide for sufficient outdoor space for the future occupiers. Although a large part of the garden space to the front of the development would be utilised for car parking, the rear garden area provides sufficient communal outdoor space for future occupiers to enjoy.
28. The appeal site is near to the Exe Estuary and the East Devon Pebblebed Heaths Special Protection Areas (SPAs). The Habitats Regulations require that permission may only be granted after having ascertained that the development will not affect the integrity of the SPAs. The SPAs are an important recreational resource and it is likely that occupants of the proposed development would visit them.
29. Given the existing use, the Council has indicated that the proposed development would not result in pathways to any likely significant effects on the SPAs. There is nothing in the evidence to lead me away from this conclusion. Accordingly, it is not necessary for me to consider the submitted unilateral undertaking.

Conditions

30. Although no conditions have been suggested by the Council in the event of the appeal being allowed, I am aware of suggested conditions within the Council's Committee report to which I have had regard and, where necessary, amended wording with regard to the advice provided in the Planning Practice Guidance.

31. As well as the statutory time limit condition, a condition regarding the approved plans is required to provide certainty. Conditions would be necessary to ensure appropriate materials, hard and soft landscaping schemes and tree protection in the interests of the appearance of the development.
32. Further conditions are necessary to ensure visibility splays and parking are provided, and the existing access is stopped in the interests of highway safety. Conditions requiring obscure glazing, balcony screen, and the submission of a CEMP prior to the commencement of development, as I note has been agreed by the appellant, are required in order to protect neighbouring occupiers living conditions.
33. In order to ensure the bin and cycle storage facilities are appropriate, a condition is necessary in order to finalise details of design, materials and finishes. A condition is necessary in the interests of ecology and biodiversity and a further condition is necessary in order to ensure adequate provision is in place for the disposal surface water on the site. I am satisfied such conditions are reasonable, necessary and enforceable.
34. The Council's committee report also included a condition requiring the development be carried out in accordance with levels shown on drawing no 8020-111L. Given that I have imposed a condition requiring the development to be carried out in accordance with the approved plans, such an additional condition is not necessary.

Conclusion

35. For the reasons given above, I the appeal is allowed.

S Harrington

INSPECTOR

Annex

Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 8020-LPA; 8020-110N; 8020-111L; 8020-101K; 8020-100K.
- 3) Notwithstanding the submitted details, no development above foundation level shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings 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.
- 4) Prior to commencement of any hard landscaping works, a hard landscaping scheme to include samples and finishes of the materials to be used in the construction of the hard surfaces shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall also give details of any proposed walls, fences and other boundary treatment including details of materials and finishes. The development shall thereafter be carried out in accordance with the approved details.
- 5) No landscaping shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to identify trees and hedges to be retained and the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species.
- 6) In accordance with the details shown on drawing no 8020-110N visibility splays shall be provided, laid out and maintained for that purpose at the site access where the visibility splays shall provide intervisibility between any points on the X and Y axes at a height of 0.6 metres above the adjacent carriageway level and the distance back from the nearer edge of the carriageway of the public highway identified as X shall be 2.4 metres and the visibility distances along the nearer edge of the carriageway of the public highway (identified as Y) shall be 70 metres in a northerly direction and 70 metres in a southerly direction.
- 7) Prior to first occupation of the development hereby approved, the existing vehicular access shall be stopped up in accordance with the details shown on drawing no 8020-110N.

- 8) No part of the development hereby approved shall be occupied until the access and parking shown on drawing no 8020-110N have been provided and shall be retained as such thereafter.
- 9) Prior to first occupation of the development hereby approved, in accordance with the details shown on drawing no 8020-100K, the windows on the south west elevation shall have been glazed with obscure glass and the obscure glazing of these windows shall thereafter be retained at all times. For the avoidance of doubt, the high level windows on the south west and north east elevations shall be fitted no lower than 1.7 metres from the finished floor level of the rooms they are intended to serve.
- 10) Prior to first occupation of the development hereby approved, in accordance with the details shown on drawing no 8020-101K, the balcony privacy screens on the south west elevation shall have been fitted and shall thereafter be retained at all times.
- 11) A Construction and Environment Management Plan (CEMP) shall be submitted to and approved by the Local Planning Authority prior to any works commencing on site, and shall be implemented and remain in place throughout the development. The CEMP shall include at least the following matters: Air Quality, Dust, Water Quality, Lighting, Noise and Vibration, Pollution Prevention and Control, and Monitoring Arrangements. Construction working hours shall be 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays, with no working on Sundays or Bank Holidays. There shall be no burning on site. There shall be no high frequency audible reversing alarms used on the site. The development shall thereafter be carried out in accordance with these details.
- 12) Notwithstanding the submitted details, and prior to first occupation of the development hereby approved, the bin and cycle store shall be provided in accordance with details of the design, materials and finishes that shall have first been submitted to and approved in writing by the local planning authority. The bin stores and cycle stores shall thereafter be constructed in accordance with the agreed details and remain in perpetuity for their intended use.
- 13) The development hereby approved shall be carried out in accordance with the recommendations and site enhancement measures contained within the 'phase 1 & 2 bat and nesting bird survey' report prepared by Devon and Cornwall Ecology dated June (updated August) 2021, and the enhancement measures be maintained and retained for the lifetime of the development.
- 14) No part of the surface water drainage shall be installed until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood and Highway Authority. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems and shall include evidence of calculations to achieve a runoff rate as close to greenfield conditions as possible. The surface water drainage scheme shall thereafter be installed in accordance with the agreed details.

- 15) Notwithstanding the submitted details, and prior to commencement of any works on site (including demolition), tree protection details, to include the protection of hedges and shrubs, shall be submitted to and approved in writing by the Planning Authority. These shall adhere to the principles embodied in BS 5837:2012 and shall indicate exactly how and when the trees will be protected during the site works. Provision shall also be made for supervision of tree protection by a suitably qualified and experienced arboricultural consultant and details shall be included within the tree protection statement. The development shall be carried out strictly in accordance with the agreed details.

In any event, the following restrictions shall be strictly observed:

- (a) No burning shall take place in a position where flames could extend to within 5m of any part of any tree to be retained.
- (b) No trenches for services or foul/surface water drainage shall be dug within the crown spreads of any retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority. All such installations shall be in accordance with the advice given in Volume 4: National Joint Utilities Group (NJUG) Guidelines For the Planning, Installation And Maintenance Of Utility Apparatus In Proximity To Trees (Issue 2) 2007.
- (c) No changes in ground levels or excavations shall take place within the crown spreads of retained trees (or within half the height of the trees, whichever is the greater) unless agreed in writing by the Local Planning Authority.