



Appeal Decision

Inquiry held on 12 December 2023

Site visit made on 15 December 2023

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2024

Appeal Ref: APP/Y1110/W/23/3328094

Former Police Station and Magistrates Court, Heavitree Road, Exeter, EX1 2LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by The Police and Crime Commissioner for Devon and Cornwall and PBSA Heavitree Road S.A.R.L against the decision of Exeter City Council.
 - The application Ref 21/1564/OUT, dated 7 October 2021, was refused by notice dated 21 February 2023.
 - The development proposed is outline planning application with all matters considered in detail except landscaping, for the demolition of the existing buildings and construction of mixed-use development comprising Purpose-Built Student Accommodation (Sui Generis) and Co-Living (Sui Generis) with associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with only landscape as a reserved matter. I have dealt with the appeal on that basis.
3. Amended plans submitted after the Council made its decision on the application show a number of changes to room types within the development. It was also clarified that the number of units now proposed is 955. I am satisfied that these amendments do not bear on the principal of development or the matters to be considered under the main issues, or any other matters raised. Consequently, no party would be prejudiced by my taking them into account.
4. A planning obligation (by way of Agreement) has been submitted under Section 106 of the Town and Country Planning Act 1990 and was discussed at the Inquiry. The Agreement sets out a number of provisions to come into effect if the appeal is allowed. I return to this later in my decision.
5. Very shortly after the close of the Inquiry, the Revised National Planning Policy Framework (the Framework) was published. Amongst other things, this included a change to the requirements for local planning authorities in respect of maintaining a five-year supply of deliverable housing sites. I sought the parties' written views on this and have them into account.
6. Both before and during the course of the Inquiry, the Council and appellants reached further agreement on a number of matters including in relation to neighbouring residential amenity, on and off-site amenity space, trees and

planning obligations. The Council withdrew its objections to the scheme relating to those matters. Consequently, I did not hear formal evidence on them. I have, however, taken the views of interested parties who maintain their objections on some of those and other matters into account.

Main Issues

7. In light of the above, the main issues are now:
- The effects of the proposal on the character and appearance of the area, including its effects on a non-designated heritage asset, St Luke's College
 - The effects on the living conditions of neighbouring occupiers in Higher Summerlands with regard to privacy and outlook

Reasons

Policy background

8. The development plan comprises the Exeter Core Strategy (2012) (the CS) and the Exeter Local Plan First Review 1995-2011 (the LP). The policies within the LP have been saved.
9. Consultation on the emerging Local Plan (eLP) ended on 15 January 2024. The eLP is therefore at too early a stage to be given anything more than limited weight.

Character and appearance and non-designated heritage asset

10. The appeal site is occupied by the building which formed the former police station and Magistrates Court. It is a large building and at its tallest, it extends to five storeys. The principal elevation of the building is set back from Heavitree Road. This is a main route into and out of Exeter and sees heavy vehicular and pedestrian use.
11. The character of the area is complex, being made up of the St Luke's College campus, a supermarket, hospital, recently built student accommodation known as The Gorge and extensive residential areas. The supermarket and hospital naturally have large footprints but nevertheless remain discreet in views from along Heavitree Road due to their modest height and available screening by vegetation and other buildings.
12. Upon leaving the city centre and heading along Heavitree Road towards the site, there is a notable change in character as the area becomes more suburban. The grain becomes finer, and despite the presence of the larger buildings, it comprises mainly residential development along streets off Heavitree Road within which buildings are 2, 2.5 and 3 storeys. In addition to the residential dwellings along Heavitree Road itself, the surrounding residential streets form the dominant character, thereby creating the sense that the site lies within a mainly suburban residential area away from the city centre albeit with some more urban elements dotted around. This is reinforced when looking towards the city centre from next to the site wherefrom it is clear that the edge of the city centre lies beyond the roundabout junction at Western Way.
13. With the somewhat anomalous exception of The Gorge which neighbours the site, the area is not host to tall buildings. However, the Gorge occupies a

- comparatively small area compared to the extent of the appeal site. Consequently, it does not have any meaningful influence on the character or grain of the local area. The five-storey element of the former police station is set well-back from Heavitree Road and forms a relatively small component of the overall existing building. It is also part of a building that has a predominantly horizontal emphasis across the site which serves to minimise the visual effects of this taller element.
14. In contrast to all of this, the proposed development would be positioned with the main elevations facing and closer to Heavitree Road. The buildings would comprise two very large blocks split between the co-living and Purpose-Built Student Accommodation uses. They would be tall buildings of very substantial volume and mass. Their presence would be a dominant feature within a number of views from along Heavitree Road and within the surrounding streets.
 15. When looking in both directions along Heavitree Road, the buildings would be read as one mass, appearing vastly larger than any other nearby building. Whilst planting along the road frontage would eventually 'soften' those effects, the sense of there being a building at odds with the size of other local buildings and grain of the surroundings would remain. It would also be many years before the planting matured to provide any meaningful mitigation.
 16. The height of the buildings would be emphasised by the arrangement of windows in a vertical plane. The step back of the uppermost level and use of dormers with gables and sloping parts of the roof would not have any meaningful effect on mitigating this. I note the aim of varying the colours of the proposed materials in an attempt to also reduce the impression of scale. However, this would be unsuccessful given that the buildings would be of immense proportions compared to anything surrounding them. To my mind, the need to use these myriad architectural devices to mitigate the scale of the buildings indicates that they would be adversely large and of inappropriate design and scale in the first instance.
 17. I note that the Council seeks transformational change on the site and there is clearly an opportunity to introduce a development that would achieve that objective. However, whilst 'transformational change' can be interpreted in a number of ways, it would be perverse for that interpretation to mean introducing a development at odds with its context as that approach would not accord with the principles of good design required by local and national planning policy. I acknowledge the desire for the efficient use of land, but the proposal goes beyond what is acceptable in terms of the density, grain and overall character of its surroundings.
 18. I have considered the assertion that the scheme would create a gateway along Heavitree Road. However, given the distance of the site from the city centre (as read on the ground being beyond the Western Way roundabout), suggests to me that it would be a 'gateway' in the wrong place. Moreover, the creation of a gateway scheme does not rely on the provision of a scheme at odds with its local environment. The proposed development would be unacceptably strident within this predominantly suburban residential area.
 19. The locally listed St Luke's college is directly opposite the site and next to the junction of Heavitree Road and Gladstone Road. It is a prominent and notable building which the proposal has the potential to affect the setting of. Whilst the proposed buildings would be of greater height and mass and set closer to it

- than the existing building, it would comprise materials sympathetic those of the college building in terms of their colour palette. Heavitree Road is a busy and wide road, and the college building is set well back from the footpath even at its closest point. Combined with the separation distance afforded by the Heavitree Road carriageway, even with the proposed building's height and mass, there would be no material diminishing effect on the architectural importance or historic value of St Luke's college or the overall appreciation of it when viewed from along Heavitree Road.
20. There would be a change to the views towards the college from Gladstone Road. These are important views as the college building is experienced as stretching widely across the end of that road in the view. However, all but a very small part of the building would still be seen in this view although I acknowledge that the proposed building would be much more noticeable than the existing building on the appeal site. Nevertheless, given the Council's desire for transformational change on the appeal site, it is inevitable that whatever is developed on it will have some effect on the view towards the college building from Gladstone Road.
21. The Framework says that, in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset. Overall, I do not consider that there would be a level of harm to the appreciation of the college buildings that would go beyond the realm of acceptability and that would therefore justify refusing planning permission on that specific ground.
22. To conclude on this first main issue, the proposal would result in harm to the character and appearance of the area, thereby running counter to CS Policy CP17 which requires proposals for development to be of a high standard of sustainable design that is resilient to climate change and complements or enhances Exeter's character, local identity and cultural diversity. It would conflict with saved LP Policy H5 which is a permissive policy that sets out four requirements that certain types of development, including student housing, should meet. Amongst other things, these are, that the scale and intensity of use does not harm the character of the area. Saved LP Policy DG1 sets out a series of things development should comply with. In short, and amongst other things, these are to protect local character through appropriate height, volume, massing, density and grain. The scheme would conflict with this Policy. Furthermore, it would run counter to paragraph 135 (formerly paragraph 130) of the Framework.
23. There would not be harm to the historic significance of the locally listed St Luke's college building and in this regard, the proposal would therefore comply with Framework paragraph 203c) (formerly paragraph 197c).

Living conditions

24. The dwellings in Higher Summerlands are arranged such that their frontages face the western part of the site. Directly in front of the dwellings is a pedestrian footpath with a metal railing fence separating it from a grassed and treed bank within the site boundary. The land rises from the footpath to the access/car park that served the police station and court building.

25. There is a substantial separation distance between the dwellings and the existing building. The proposal would result in a building of greater proportions closer to the frontages of the dwellings in Higher Summerlands and part of the access road to serve the development would be situated in between. There could inevitably be some diminishing effect on the outlook from those dwellings when looking towards the site resulting from both the closer proximity of the proposed building and its associated vehicular movements.
26. Having said that, the dwellings have good sized rear gardens, and I observed a number of accesses leading directly from those gardens onto the street. Parking to serve the dwellings is also on this side of them and it seems likely to me that residents would predominantly use the rear garden gates to access their properties. Furthermore, I also observed net curtains in most of the windows facing the site and it would be reasonable to conclude that they were put up for privacy purposes in relation to the comings and goings associated with the site's former use. It therefore seems evident that the main focus for residents in Higher Summerlands is away from the site in terms of both outlook and access.
27. Moreover, I see no reason why the net curtains would not be left in place and thus, the effects on outlook and privacy for residents in Higher Summerlands would not be materially different to what they are currently. There is space for extensive new planting, as part of the reserved matter, between the dwellings and the proposed development. Given the rise in the land, this planting could be sufficiently dense such that it would take effect in the short term and acceptably mitigate the effects of the proposal on the outlook and privacy of occupiers of Higher Summerlands.
28. Taking all of this into account, the effects of the proposed development would not be so profound so as to result in harmful effects either in terms of outlook or privacy for residents in Higher Summerlands. The proposal therefore accords with LP Policies H5a) and SG4b) which both seek to protect the amenity of residents. It would also accord with paragraph 135f) (formerly paragraph 130f) of the Framework which, amongst other things, seeks to ensure developments provide a high standard of amenity for existing and future residents.

Other Matter

Conservation Areas

29. The Mont Le Grand Conservation Area (CA) covers a large area to the east but does not border the appeal site. It extends to the north and south of Heavitree Road. The CA comprises a large number of listed buildings and there is a range of distinctive architectural features typifying the main periods of building. There are also a number of green spaces and mature trees. The CA is sufficiently far away and discreet from the appeal site such that the proposal would not result in harm to its significance or the significance of the listed buildings within it.
30. The Lower Summerlands CA is a small and relatively discreet CA located on the other side of the dwellings in Higher Summerlands. It contains many listed buildings, mature trees and historic brick walls that create strong boundaries within the CA. The Lower Summerlands CA is well contained and is sufficiently robust to withstand the effects of nearby development. There is also a sufficient degree of physical and visual separation between the CA and the

appeal site. There would be harm to its significance or the significance of the listed buildings within it.

31. The St Leonards CA covers a very large area and part of its northern boundary is contiguous with the boundary of St Luke's College where it fronts onto Heavitree Road. The remainder of the CA extends to the south across a wide spectrum of residential areas. Whilst part of the CA's boundary is therefore directly opposite and close to the appeal site, its significance in this specific area derives from the character and appearance of the college building to which I have not found that there would be harm. It therefore follows that no harm would result to the significance of the CA or the significance of the listed buildings within it.

Planning obligations

32. The signed and dated obligation includes provision for contributions towards health, habitats, education, play and public open space. It also makes provision for restricting car use, other than for those with disabled badges, within the development of both the co-living and student accommodation. There are separate alternative provisions related to the habitats contribution in terms of whether it applies to part or all of the development. However, as I am dismissing the appeal for other substantive reasons, with the exception of affordable housing, I do not consider the obligations further.

Planning Balance and Conclusion

33. The emerging local plan has reached the relevant stage such that, under the provisions of the Revised Framework, the Council is required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing of deliverable housing sites. This arrangement applies for a period of two years from the Revised Framework's publication. The parties agree that the Council can identify over a four-year supply and thus, the tilted balance in Framework paragraph 11d) is not engaged.
34. The proposal would assist in meeting unmet needs in relation to market and affordable housing, PBSA and co-living including a specific identified need for one-bedroom units. It is likely that this would also help to free up market housing elsewhere in Exeter. The Council accepts that the housing requirement is not going to be met over the plan period and in any case, housing targets are a minimum. Aligning that with the government's desire to boost the supply of homes, the provision of market housing carries significant weight. This remains the case even taking into account the temporary reduction in the housing supply requirement as changing the parameter does not alter the prevailing need for housing. Set against a backdrop of long-standing affordable housing need in Exeter, the provision of affordable housing also attracts significant weight.
35. The appellants put it to me that if the appeal scheme does not go ahead in the location proposed, there would be scant opportunities for it to be located elsewhere due to a variety of land-use constraints in Exeter and its surrounding countryside. However, that is not to categorically say that a suitable site elsewhere may not come forward at some point. It is also possible that another scheme of different form which is acceptable to the Council might come

forward on the appeal site albeit not necessarily on the scale proposed in this appeal.

36. Set against the identified benefits, the harm to the area's character and appearance would be severe. The proposal would cross the line of acceptability in terms of its effects on the local area into which it would not satisfactorily integrate. I have found that it would be overly-assertive and incongruous. The level of harm that would result is sufficient to outweigh the benefits of the scheme. The proposal would not accord with the development plan as a whole.

37. For the above reasons, the appeal does not succeed.

H Baugh-Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Charles Banner KC and
Richard Sagar

Instructed by the appellants

They called:

Dr Chris Miele IHBC MRTPI

Montagu Evans LLP

Gareth Hooper BSc(Hons) MSc MRTPI

DPP Planning

FOR THE LOCAL PLANNING AUTHORITY:

Timothy Leader

Instructed by Exeter City Council

He called:

Christopher Cummings BA(Hons) MSc
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Funda Kemal BSc(Hons) DipArch
PGCert RIBA

Freelance Architect

INTERESTED PARTIES:

Mr C Dent

Local resident

Councillor Andy Ketchin

Ward Councillor

Councillor Matthew Vizard

Ward Councillor

DOCUMENTS

- ID01 Appellants' table relating to points in the Council's proofs set against reasons for refusal; Statements of Common Ground and letters of clarification
- ID02 Appellants' opening statement
- ID03 Council's opening statement
- ID04 Mr Dent's statement
- ID05 Statement of Common Ground – Reasons for Refusal
- ID06 Errata to Dr Miele's proof
- ID07 Summary of section106 Agreement
- ID08 Draft planning conditions
- ID09 Indicative planting plan
- ID10 Site visit viewpoint location plan