



Appeal Decision

Site visit made on 21 November 2023

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2024

Appeal Ref: APP/U1105/W/23/3323724

Exmouth Beach, Queens Drive, Exmouth, Devon EX8 2GD

- 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 Alice Johnson of Queen's Drive CIC against the decision of East Devon District Council.
 - The application Ref 22/2030/FUL, dated 2 September 2022, was refused by notice dated 15 February 2023.
 - The development proposed is the construction of a single storey flexible office/community Hub building and extension to the existing bin store to provide new WC facilities ancillary to the existing Sideshore development.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a single storey flexible office/community Hub building and extension to the existing bin store to provide new WC facilities ancillary to the existing Sideshore development at Exmouth Beach, Queen's Drive, Exmouth, Devon, EX8 2GD in accordance with the terms of the application, Ref 22/2030/FUL, dated 2 September 2022, subject to the conditions in the attached Schedule of Conditions.

Application for costs

2. An application for costs was made by Queen's Drive CIC against East Devon District Council. This application is the subject of a separate Decision.

Preliminary Matter

3. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. An opportunity was provided to the main parties to make further written comment over these changes. This decision is based on the current Framework and has taken account of the further representations made on this.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site is part of an undeveloped piece of land located on Exmouth seafront. It is related to the Sideshore development that was opened in 2020 and is operated and managed by a community interest company. The proposed building would form an office and community hub associated with the Sideshore development.

6. The site is between Queen's Drive and the beach. On this section of the seafront are areas of grassed land between the road and the beach. The other areas of grass have large shelter buildings on them. Additionally, nearer the site are buildings adjacent to the beach that are occupied by various companies/organisations. There is also a larger building that accommodates a café and fish and chip shop. As such, there is an existing collection of buildings along this section of the seafront that form a part of the character and appearance of the Exmouth seafront. The principle of erecting a small building on the appeal site would therefore not be out of keeping with the prevailing character and appearance of this section of the seafront.
7. The proposed building would be directly in one's eyeline when travelling eastwards along Queen's Drive due to the bend in the road away taking it away from its parallel position with the beach. However, its modest scale would be akin to the adjacent Exe Fishing building that would be seen in the same view. Furthermore, the substantial sized Sideshore building provides the backdrop and the proposal would therefore not interrupt important viewpoints along the seafront looking from the west. The view of the proposed building when travelling in the opposite direction along Queen's Drive would be of an appropriately sized form of development in the context of existing buildings along the promenade. It would therefore not appear out of place from this viewpoint either.
8. The presence of existing buildings on the edge of the beach and the changes in level between the promenade and the beach also means that views from the beach back towards Queen's Drive would not significantly alter as a result of the proposed development. The siting of the proposed structure would also ensure that views of the sea from the promenade would not be interrupted. Furthermore, the building would occupy a relatively small part of the grassed area and therefore would not compromise the openness of the site and its surroundings.
9. The use of timber and wildlife panels, together with trellising to facilitate vegetation to grow up the building, would result in the building being visually recessive within its surroundings. The landscaping around the building would further help assimilate the building amongst the existing nearby built form. Furthermore, the plans indicate the use of driftwood, and this would aid the development's relationship with its setting close to the beach.
10. For these reasons, the proposed development would not cause harm to the character and appearance of the area. Consequently, the proposal complies with Policies D1 and D2 of the East Devon Local Plan 2013 – 2031 and Policy EB2 of the Exmouth Neighbourhood Plan 2018 – 2031, which collectively seek, in part, for development to be of high design, respect local distinctiveness and enhance the setting of new buildings through landscaping. Additionally, the proposal complies with the Framework, which seeks for development to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping and sympathetic to local character, including the surrounding built environment and landscape setting.

Other Matters

11. The development is proposed for a mixed use, including community facilities. Interested parties have asserted that there is no need for more community facilities. I note that this matter was considered by the Council and the

Committee report sets out that such facilities would be supported under planning policy, subject to securing meaningful community use. I have little information before me to arrive at a different conclusion, and I consider that a condition requiring the approval of, and compliance with, a Community Use Agreement would secure the community use going forward.

12. The evidence indicates that the site has potential archaeological interest as it lies on the site of a 19th Century fort. Devon County Council's Historic Environment Officer advised that it is highly likely that structural and artefactual deposits associated with the fort are present below the ground of the site. The proposed development has the potential to damage or destroy these structural and artefactual deposits. This particular matter can be addressed through the attachment of a condition to secure a Written Scheme of Investigation to be approved by the Council and for the development to proceed in accordance with it.
13. Concerns have been raised by interested parties that the proposal would lead to pressure for further development on the remaining grassed area next to Sideshore. I consider that the development would not set an undesirable precedent as there is not a reasonable prospect of similar development being repeated nearby. Even if there was any future development involving the appeal building or nearby, it would likely require planning permission and would be determined on its own individual merits and impact.
14. Regarding the potential for the building to be used for other uses in the future, a condition can be attached that would remove permitted development rights for a change of use and therefore allow the Council to formally consider the merits and impact of a future use.
15. An interested party feels that the development would result in a reneging on assurances made in the Design and Access Statement that was submitted as part of the application for the Sideshore development. I note the comments that were made in that application document, but I am determining the appeal on the basis of the plans before me and its own individual merits.

Conditions

16. The Council have suggested various conditions in the event that the appeal was to be allowed. I have considered these against the six tests set out in Paragraph 56 of the Framework. In some instances, while I have adopted the suggested conditions, I have made minor changes to the wording to add clarity and preciseness as appropriate.
17. The standard time limit condition and a condition listing the approved plans are necessary for the avoidance of doubt and in the interests of proper planning. I also consider that a condition to control external materials is necessary in the interests of the character and appearance of the area.
18. I acknowledge that the appellant has queried the attachment of an archaeological condition as the foundation investigations that were carried out indicated that that element of the development is unlikely to impact upon any in situ heritage assets with archaeological interest. However, intrusiveness below surface is unlikely to be limited to foundations as it is likely that services and drains will need to be attached. Therefore, the condition requiring a Written Scheme of Investigation is still necessary to adequately identify the

site's archaeological potential and record/publish results in the interests of safeguarding the historic environment.

19. Having regard to the concerns over future uses, the Council's suggested condition regarding a Community Use Agreement and a further condition restricting the use of the building through the removal of permitted development rights are also necessary.

Conclusion

20. For the reasons given above, the proposed development complies with the adopted development plan, when taken as a whole. Accordingly, I conclude that the appeal should be allowed.

K Reeves

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:
 - Site Location Plan (drawing number 0393_SID_EX_1.0)
 - Proposed Site/Roof Plan (drawing number 0393_SID_PL_1.1)
 - Proposed Office Floor Plan (drawing number 0393_SID_PL_2.0)
 - Proposed WC Layout (drawing number 0393_SID_PL_2.1)
 - Proposed Office Elevations (drawing number 0393_SID_PL_3.0)
 - Proposed WC Elevations (drawing number 0393_SID_PL_3.1)
- 3) No development shall take place until a Written Scheme of Investigation has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include an assessment of significance and research questions and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;

- vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

- 4) Prior to their installation, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to, and approved in writing by, the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved details.
- 5) The development hereby permitted shall not be first used until a Community Use Agreement has been submitted to, and approved in writing by, the Local Planning Authority. The Community Use Agreement shall include details of qualifying users of the building's community facilities, pricing policy, hours of use, access by users, management responsibilities and a mechanism for review. The development shall be used in compliance with the Community Use Agreement, unless subsequently updated and approved in writing by the Local Planning Authority.
- 6) Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (as amended) and the Town & Country Planning Use Classes Order 1987 (as amended) (or any order revoking and re-enacting those Orders with or without modification), the premises shall be used as office and community facilities and for no other purpose (including any other purpose in Classes E or F of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification)).