

Appeal Decision

Site visit made on 10 April 2024

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 May 2024

Appeal Ref: APP/Y1110/D/24/3338316

15 South Avenue, Exeter, EX1 2DZ

- 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 H Groves against the decision of Exeter City Council.
 - The application Ref 23/1404/FUL, dated 3 November 2023, was refused by notice dated 11 January 2024.
 - The development proposed is a rear timber deck.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The deck is in place: this does not alter the way in which I assess the case.

Main Issues

3. The main issues are the effect of the proposal on:
 - living conditions for neighbours; and
 - the character of the host property and the immediate locality.

Reasons

4. The appeal property is a two-storey semi-detached extended dwelling with a rectangular garden to the rear. It is in a locality of broadly similar homes and gardens which come together to create a neighbourhood of established residential character and pleasing appearance. The proposal is for a substantial rear deck.

Living conditions

5. The decking effectively runs to the side boundaries and significantly projects into the garden. There is no high level side-screening, which itself in any event might well have amenity issues for neighbours. From the deck it is very easy to see sideways over into neighbouring gardens and down the length of these rear amenity spaces. Whilst levels and disposition mean that rear gardens here never gain from full privacy or a complete lack of over-looking the deck in-situ takes this inter-visibility to a greater and unfortunately unacceptable degree. The overall impact of the development is one of uncomfortable impingement upon neighbours.
 6. Saved Policy DG4 of the Exeter Local Plan First Review 1995-2011 (LP) is relevant. Amongst other matters this calls for development to protect
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residential amenity. I conclude that the appeal proposal would conflict with this policy.

Character

7. The appeal property lies within a Conservation Area. The Council raises no concerns on 'Conservation Area' grounds. I am cognisant that there is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. In this instance I am satisfied that the decking would be neutral in terms of the character and appearance of the Conservation Area; the appeal scheme would not run contrary to Section 72(1) of the Act.
8. Whilst not of concern in the 'bigger picture' of the Conservation Area I am not content with the aspect of more immediate character. In my opinion the decking does not sit comfortably with the form and scale of the host property or with the character and nature of a structure one would expect to find in this or close-by small-scale traditional gardens. It is disproportionate, incongruous and ungainly. There is not a sense of subtlety or a sufficient degree of being incidental and ancillary to the main dwelling and the rear garden scene. Regrettably the decking is out of character.
9. Policy CP17 of the Exeter Local Development Framework Core Strategy 2012 and LP Saved Policy DG1 are relevant to this issue. Taken together, and amongst other matters, they seek to secure development which is of good quality design; suitably compatible in form, scale and height to context and respecting local distinctiveness. I conclude that the proposal would run contrary to these policies.

Other matters

10. I sympathise that expense has been incurred; I understand that the Appellant did not realise that planning permission was required. However, to be fair to all I have to determine matters as I would with a proposal which was not in situ. It is unfortunate that the Appellant feels the Council did not give an opportunity for dialogue.
11. I recognise that in an ideal world there would be level access from rear doors to outside space, that garden levels locally reduce privacy generally and that the scheme was not met with universal objection locally but, in my opinion, it results in overlooking sufficiently above the norm to be unacceptable. The Appellant offers a range of modifications to the deck or boundary treatment which I might wish to impose. However, I have to determine the scheme before me and to my mind there is not a means via planning conditions which would be legislatively reasonable or fair to those around who have also made assessments on the current scheme.
12. I have carefully considered all the points raised by the Appellant but these matters, either individually or collectively, do not outweigh the concerns which I have in relation to the main issues identified above.

13. I confirm that policies in the National Planning Policy Framework have been considered; the Council's policies which I cite mirror relevant objectives within that document.

Overall conclusion

14. For the reasons given above I conclude that the appeal proposal would have unacceptable adverse effects on living conditions and on the character of the host property and the immediate locality. Accordingly, the appeal is dismissed.

D Cramond

INSPECTOR