



Appeal Decision

Site visit made on 25 June 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th July 2024

Appeal Ref: APP/Y1110/W/24/3339350

Land adjoining Kinnerton Court, Exeter EX4 2EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Cooper of Hollisgreen Enterprises Limited against the decision of Exeter City Council.
 - The application Ref is 22/1376/FUL.
 - The development proposed is three-storey building containing 3no. apartments with associated access, parking and landscaping.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on (i) the character and appearance of the area; (ii) the living conditions of nearby residents, with particular regard to external amenity space; and (iii) whether the proposed development would provide acceptable living conditions for future occupants, with regard to external amenity space, safety and security.

Reasons

Character and appearance

3. The appeal site comprises an undeveloped and grassed area of land that wraps around the front and side of a block of linked flats known as Kinnerton Court (KC). These flats are of consistent and uncomplicated design with features that include decorative pediments and a layout that steps forward and back. They are set well back from the main road and include frontage parking. On the hillside behind the appeal site is a residential cul-de-sac. This includes properties with prominent side and frontage elevations that can be appreciated from various vantage points. Despite currently being overgrown, the appeal site forms part of an open and welcoming layout that is the setting between these two distinct patterns of street block.
4. A generous amount of frontage grass verge would be retained adjacent to the proposed parking area. This area would be next to a larger car park linked to KC and would therefore be read in this context. It would be modest and proportionate to the development proposed. Consequently, the space afforded to vehicles at the front of KC would not be noticeably more harmful than current arrangements. In this respect, there is little evidence of conflict with Policy DG6 of the Exeter Local Plan First Review, March 2005 (ELP).

5. The proposed flats would be of a similar height to the adjacent block. To a modest extent, the forward projection of the building would reflect the stepping of the adjacent block. Furthermore, the proposed gable frontage would provide a contemporary interpretation of the neighbouring building.
6. However, even though the proposal would be a distinctly separate building, retaining some visibility of the adjacent pediments, the additional balconies, mixed palette of materials, bulk and massing would excessively stand out, dominating this frontage. This would be amplified by the forward positioning. Moreover, large and inconsistent fenestration detail on the front and side elevations would not compliment those of surrounding buildings. Despite the acceptable parking arrangements, these atypical design features would not promote local distinctiveness.
7. The scheme would not be oppressively close to the pair of semi-detached properties behind. However, even if softer boundary treatment could be secured using an appropriately worded condition, the proposal would still significantly erode the open layout qualities of the entrance to the cul-de-sac. As such, the density of development would not be compatible with the character and quality of the local environment.
8. For the above reasons, the proposal would harm the character and appearance of the area. As such, it would be in conflict with Policy CP4 of the Exeter City Council Core Strategy, February 2012 (CS), policies H2, DG1 and DG4 of the ELP. Collectively in this respect, and amongst other things, these policies seek to prioritise previously developed land at a density that ensures developments relate well to the character and appearance of adjoining buildings and the surrounding townscape. There would also be conflict with paragraph 135 of the National Planning Policy Framework (the Framework) which says that decisions should ensure developments are sympathetic to local character and landscape setting.

Living conditions of nearby residents

9. The appellant says that the appeal site is private land that is separate from KC, which is not disputed. They add it hosts no use as amenity space for existing residents. Other than for its open aesthetic contribution to the character and appearance of the area, there is little to show that the appeal site currently serves as a private communal open space of the sort promoted within the Council's Residential Design Supplementary Planning Document, September 2010 (SPD).
10. Whilst the extent of the green space in front of some of the flats at KC would be reduced, a generous amount of the open grass verge to the front of the appeal site would be retained. The effect on the quality of this space would be neutral.
11. For these reasons, the living conditions of nearby residents, with particular regard to external amenity space, would not be harmfully compromised by the development. As such, there would be no conflict with Policy DG4 of the ELP which seeks to ensure residents feel at ease within their homes.

Living conditions of future occupants

12. Although not having the force of policy, chapter 7 of the Council's SPD requires ground floor flats to provide private sitting out space. This is in addition to a

per flat requirement for 20sqm of communal open space that is screened from the public. The appellant contends that the Council has miscalculated the amount of communal space required. However, even though the proposed ground floor flats would contain their own private garden space, this should be in addition to 20sqm per flat. The proposal would fall short of this requirement.

13. Even so, whilst the open verge at the front of the appeal site would not provide privacy for future occupants, it could still conceivably be used for sitting out. This, together with a proportionate communal space and generous ground floor gardens would mean that in the round, external amenity space would be satisfactory in its quantity and quality.
14. Additionally, notwithstanding the officer report comments, the proposed communal space would have private gated access off Howard Close. This would avoid opportunities for loitering or anti-social behaviour. In that context, there would be a narrow gap between the appeal building and KC with a gate to the rear. However, a frontage gate as depicted on the submitted visualisation could overcome any potential security or safety conflicts here. Had I been minded to allow the appeal, details of the gated arrangements could have been secured using an appropriately worded condition.
15. For the above reasons, the proposal would not harm the living conditions of future occupants, with particular regard to external amenity space, safety and security. As such, there would be no conflict with Policy DG4 of the ELP which seeks to ensure residents feel at ease within their homes.

Other Matters

16. The Council refers to conflict with Policy CP7 of the CS in its decision notice. However, I have been provided with no substantive evidence that this affordable housing policy would be applicable to this appeal.
17. I have paid regard to the appellant's comments in respect of the processing of the application. However, these have no bearing on my decision which is based on the planning merits of the proposal.
18. The lack of objection, including from stakeholders such as the Police would not be a reason in itself to allow inappropriate development.
19. My attention has been drawn to a previous appeal at this site, although I have not been provided with any detailed plans. There are similarities in terms of the site area. Furthermore, although a new policy context applies to this appeal, in this respect, the general thrust of national and local policy has not altered. That is to make efficient use of land and promote good design that is sympathetic to local character. However, that appeal was for an extension to KC to provide 6 flats. This is a materially different set of circumstances to this appeal. In any case, I have based my decision on the evidence before me and my own observations.
20. The appeal site is located near the Exe Estuary Special Protection Area (SPA). This is a statutorily protected habitat site under the Conservation of Habitats and Species Regulations 2017 (as amended). It is anticipated that new housing development in this area is 'likely to have a significant effect', when considered either alone or in combination, upon the interest features of the SPA due to the risk of increased recreational pressure caused by that development.

21. The Council has undertaken an Appropriate Assessment (AA) for the site which concludes that, whilst the development has the potential to have a significant effect on the European Site, and an adverse impact on the achievement of the conservation objectives for the site, the impacts of the development can be mitigated through receipts from the CIL. This is to contribute towards the implementation of measures in the South East Devon European Sites Mitigation Strategy (SEDEMS), which are designed to avoid and mitigate the adverse impacts of increased visitor pressure brought about through the population growth. SEDEMS sets tariffs for residential development to contribute to mitigation measures and how they would be collected through the CIL and Planning Obligations/Unilateral Undertakings.
22. Notwithstanding the Council's findings in respect of this, as the competent authority, I am required to carry out an AA of the effect of the proposed development. However, as I am dismissing the appeal in any event, I have not needed to consider this matter further. This is because any findings on this issue would not change the outcome of the appeal.

Planning Balance and Conclusion

23. The appellant says that the Council has a sufficient supply of housing. I find no reason to disagree. Therefore, paragraph 11 d) of the Framework is not engaged. Nevertheless, the social benefits of housing delivery are recognised, albeit that these are tempered by the small scale of the development. The scheme would also bring some limited economic benefits to the construction industry and thereafter through additional consumer spending in the local economy. Additionally, the scheme would result in spacious, high-quality flats in a sustainable location.
24. Bringing together my conclusions on the main issues, I have found that the living conditions of existing and future occupants would not be harmfully affected. However, this, together with the aforementioned benefits, does not outweigh the harm I have found to the character and appearance of the area.
25. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development fails to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed.

J Hills

INSPECTOR