



Appeal Decisions

Site visit made on 18 June 2024

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2024

Appeal A Ref: APP/Y1110/W/24/3336432

75A Fore Street, Topsham, Devon, EX3 0HQ

- 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 Secudo Ltd against the decision of Exeter City Council.
 - The application Ref is 22/1335/FUL.
 - The development proposed is conversion of uninhabited two bedroom maisonette into two self-contained one bedroom flats and installation of free-standing balcony, bin and cycle storage in rear courtyard.
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Appeal B Ref: APP/Y1110/Y/23/3330653

75A Fore Street, Topsham, Devon, EX3 0HQ

- The appeal is made under section 20 of the Planning Act 1990 (Listed Buildings and Conservation Areas) Act (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Secudo Ltd against the decision of Exeter City Council.
 - The application Ref is 22/1336/LBC.
 - The works proposed are conversion of uninhabited two bedroom maisonette into two self-contained one bedroom flats with associated internal alterations, removal of chimney and replacement rear door, installation of free standing balcony in rear courtyard and alterations to rear of ground floor commercial unit.
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Decision

1. Appeal A: the appeal is dismissed.
2. Appeal B: the appeal is dismissed.

Preliminary Matters

3. The above descriptions of works and development are taken from the decision notices for succinctness.
4. The appeals concern works and development at the Grade II listed 75 Fore Street (List Entry Number: 1103917), which includes the appeal site, 75A. In addition, the appeal site and its environs are within the Topsham Conservation Area.
5. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require special regard is given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
6. The Council did not object on grounds of the Conservation Area. Section 72(1) of the Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area and I will return to this consideration latterly. I am also mindful of the historic

environment policies within the National Planning Policy Framework (the Framework) that relate to the significance of designated heritage assets and their settings.

Main Issues

7. The main issues in both appeals are therefore whether the proposal would preserve the Grade II 75 Fore Street listed building or its setting or any features of special architectural or historic interest that it possesses.
8. The main issues in Appeal A are also the effect of the proposal on protected species and whether the intended occupants would have adequate living conditions in terms of the size of the dwellings and daylighting.

Reasons

The listed building

9. The appeal building fronts the main street in Topsham and a door to one side provides access to its upper floors, which are the subject of this proposal. This floorspace was vacant at the time of my site visit. The rest of the ground floor is an estate agent's office with a shopfront style window, which is not part of this proposal. To the rear is a small yard enclosed by buildings, which is commensurate with the findings of the historic building survey (the survey), which comments on the burgage plot shape of development.
10. The special interest and significance of the listed building is partly derived from its sash windows, which are the focus of attention due to their central siting and classical proportions as well as the modest window/wall ratio. Painted black, they contrast prominently with the white walls. The above survey¹ notes 'each storey has a single sash window each of 8 over 8 lights, with narrow , mouldered glazing bars and no horns. These sashes may date from the late 18th or early 19 century; some of the panes seemed to preserve their original glass'.
11. In addition, the rear and front elevations contribute to the special interest by the pleasing proportions of their three storeys. The building has a harmonious, orderly classical appearance, reflecting the style of its suggested era.
12. The list description notes that all the listed buildings in Fore Street form a group and the Conservation Area Appraisal and Management Plan graphically shows² much of this street consists of listed buildings. Indeed, the appeal building, and its neighbours are highlighted in two photographs in this Appraisal³.
13. The proposal involves the addition of balconies to the upper floors of the rear elevation, which would extend beyond the windows to just over half the width of the building. Such sizing would attract undue attention away from the windows and disrupt the pleasing proportions of the elevations. The balconies would appear discordant, harming the listed building.
14. The submitted plans state the sash windows on both elevations would be replaced. Whilst the Appellant suggests that some of the windows are not

¹ Paragraph 2.2

² Plan 6

³ Pages 16 and 30

original, nonetheless they are well detailed, and as I have found above, they are intrinsic to the character of the listed building. Their repair where possible would retain their contribution and a full condition schedule has not been submitted to demonstrate that this would not be possible. In any event, detailed elevations and cross sections of the replacements have not been provided, so it is not known whether their detailing would be appropriate. Consequently, in the absence of details to the contrary, the proposal would harm the listed building.

15. The Council's reasons for refusal refer to works to the roof and also the insertion of flues. However, I do not have clear details of what works would be involved to reach a conclusion on these aspects.
16. I find that the proposal would harm the listed building, and that harm would be less than substantial. Policy CP17 of the Exeter Local Development Core Strategy requires proposals compliment or enhance the character, local identity, and cultural diversity of the area. Saved Policy C2 of the Exeter Local Plan First Review echoes the 1990 Act, in that proposals must have special regard to the desirability of preserving the historic building. The proposal would therefore be in conflict with the above policies.

The potential effect of the proposal on protected species

17. On my site visit I noticed openings at either end of the roof, which would allow access for bats and birds. The roof is a traditional construction with tiles on battens and uncovered on the inside, with dark and open roof space, which would be likely to be favourable conditions. Similarly, the nearby estuary and countryside also support that potential.
18. The submitted plans are annotated to show works to the roof, including to the timbers and covering slates. Inevitably this would be likely to lead to disturbance, exposure to full daylight, noise and human presence; these pressures would be likely to lead to the birds/bats abandoning their habitat.
19. The Appellant has indicated a willingness to commission a survey for protected species. However, at this point of determination, no such survey has been provided and it cannot be assumed that the proposal would not harm protected species.
20. The Council do not quote a Development Plan policy on this issue in their decision notice or report and instead refer to paragraph 180 of the Framework. This makes reference to protecting and enhancing sites of biodiversity. Paragraph 186 additionally seeks to avoid significant harm or if not adequate mitigation. The proposal would be contrary to paragraphs 180 and 186 of the Framework. In addition, The Natural Environment and Rural Communities Act 2006 (NERC Act) safeguards protected species.

The living conditions of the intended occupants

21. The proposal is for two dwellings, which the Council record as 35sqm in their officer report. This conflicts with the Technical housing standards 2015, national space standard, which seeks 37/39sqm⁴ for one bedroom flats. Policy DG4 of the Exeter Local Plan does not specify minimum size standards rather

⁴ According to whether there is a bath or shower

requires 'a quality of amenity'. CP17 is similar and seeks high quality design. The Council's Residential Design SPD 2010 also promotes living conditions.

22. The proposed layout shows that the available space has been designed towards the bedroom and living rooms wherein most time would be spent. The kitchen and living areas have an open plan format which would collectively feel spacious. The rooms would also be evenly shaped and proportioned so that furniture and circulation could be accommodated without compromising the quality of the space. I therefore find that suitable living space could be provided.
23. The Council also express concern about daylighting. I saw on my site visit there are several buildings to the rear which are broadly the equivalent height of the appeal building. However, the sizeable sash windows on both the front and back elevations allow deep daylight penetration and would face the bedrooms and living rooms spaces. Accordingly, I find that the dwellings would have adequate daylighting.
24. As I have found above the flats would provide suitable living conditions, so the proposal would not conflict with Policies DG4 and CP17.

Other matters

25. The site is within the Topsham Conservation Area. As I have found above the proposal would harm the listed building, it is not necessary for me to consider whether the character or appearance would be preserved or enhanced.

Heritage and Planning Balances

26. Whilst the harm arising would be less than substantial; however, Paragraph 205 of the Framework advocates great weight to the asset's conservation. I therefore give considerable importance and weight to the harm I have identified in my balancing judgment below.
27. The proposal would be likely to make beneficial use of the vacant building. It would also be likely to lead to the undertaking of repairs to the building and maintenance thereafter. The creation of an additional dwelling in the town centre, accessible to services/facilities without car dependence, would also be beneficial.
28. However, taking the public benefits together as a whole I conclude that they would not be of sufficient weight to outweigh the harm identified to the significance and special interest of the designated heritage asset.
29. I consider that the proposed works and development would fail to preserve the special architectural and historic interest of the Grade II listed building. Consequently, the proposal would be contrary to sections 16(2), and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
30. I have found above that the proposal would accord with Policies DG4 and CP17 in so far that the dwellings would have suitable living conditions. However, this would not outweigh the conflict with Policies CP17 and C2, in terms of the harm to the designated heritage asset. In respect of Appeal A, the proposal would be contrary to the Development Plan when taken as a whole and material considerations do not indicate the proposals should be approved. Indeed, in

addition to the Development Plan considerations the proposal would potentially harm protected species, contrary to the Framework and NERC Act.

Conclusion

31. For the reasons given above and having regard to all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

John Longmuir

INSPECTOR