



# Appeal Decision

Site visit made on 2 October 2024

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 24 October 2024**

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**Appeal Ref: APP/Y1110/W/24/3344914**

**70 Pennsylvania Road, Exeter, Devon EX4 6DF**

- 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 Startup, Graduation Properties against the decision of Exeter City Council.
  - The application Ref is 23/0652/FUL.
  - The development proposed is Creation of purpose-built student accommodation for 6no. Rooms.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development in the banner heading above is taken from the application form as neither party has provided written confirmation that a revised description has been agreed.
3. There is no dispute between the main parties that given the separation distance between the appeal site and listed buildings and intervening built development, the proposal would not harm the significance of any listed buildings or their setting. I have no reason to disagree. However, the appeal site lies within the Longbrook Conservation Area and the provisions of sections 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are therefore engaged.
4. Following the determination of the planning application, a revised National Planning Policy Framework (the Framework) was published in December 2023. Given that this pre-dates the submission of evidence by both parties, I am satisfied that this has not prejudiced any party and I have had regard to the latest version in reaching my decision.
5. During the course of the appeal the Government published a consultation on proposed reforms to the Framework and other changes to the planning system. This consultation was accompanied by a written ministerial statement entitled 'Building the homes we need'. In light of this, all parties were given the opportunity to comment on any implications for the appeal. I have taken the responses into account.
6. The Council state that during the appeal their land supply position changed such that they currently have 5 years and 1 month supply and no shortfall. I will return to this below.

## **Main Issues**

7. The main issues are:

- the effect of the proposal on the character and appearance of the area and whether it would preserve or enhance the character or appearance of the Longbrook Conservation Area.
- whether the proposal would lead to an over concentration of student accommodation, resulting in a harmful imbalance in the local community.
- the effect of the proposal on the living conditions of the occupiers of numbers 68 and 70 Pennsylvania Road with particular regard to outlook, and on the occupiers of No.70 Pennsylvania Road with regard to outdoor space and refuse storage.
- whether the living conditions of future occupiers of the proposed development would be acceptable, with particular regard to outlook, outdoor space and refuse storage.
- whether the proposal would provide appropriate cycle storage.
- whether the proposal would result in the overdevelopment of the site.

## **Reasons**

### *Character and appearance*

8. Longbrook Conservation Area (LCA) is characterised by many contributing factors such as its topography, historic and architectural formation, building materials, grouping of buildings and heights, streets and spaces. Generally, the area is characterised by buildings lining the roadside with pockets of green space puncturing the street scene and adding to the character of the area. The dwellings are mainly three-storey buildings of rich architectural detailing with predominately brick with some painted render finishes under pitched tiled roofs. In part, these characteristics form the significance of the LCA.
9. No.70 Pennsylvania Road forms part of a row of attractive dwellings with rich detailing constructed from brick with a pitched roof. Part of the rear of the property, where the appeal building is proposed, is separated from No.70 and is enclosed. The appeal site backs onto a lane providing pedestrian and vehicular access to the rear of properties. The access also serves Devonshire Place Play Area (DPPA) and connects to Egerton Park Road. There are views of the rear of the site and the adjacent row of dwellings from the DPPA.
10. Plan 2 of The Longbrook Conservation Area Appraisal and Management Plan (November 2005) (CAA) identifies the DPPA as a Positive Green Space containing an identified pedestrian route that runs through the DPPA and to the rear of the appeal site. Plan 3 of the CAA identifies No.70 Pennsylvania Road, along with the adjacent row of properties, as making a positive contribution to the character of the area. It also identifies the two buildings proceeding the development of Kilmorie Mews to the north of the appeal site as not making a positive contribution to the character of the area and having a neutral impact.
11. The proposed building would be set to the rear of No.70 Pennsylvania Road immediately adjacent to the rear access lane. While it would be partially screened by existing planting to the DPPA, parts of the building would still be

visible from the park entrance closest to the appeal site and along the access lane. Although partly screened by planting, it would also be visible from the junction of the access lane with Edgerton Park Road.

12. Other than the development of Kilmorie Mews, there have been no detached separate buildings of the scale proposed in close relation to the rear of other properties close to the appeal site off Pennsylvania Road or to Edgerton Road. Therefore, and despite its scale and height being subservient to No.70 Pennsylvania Road, the proposed positioning and density of development is not characteristic of the immediate area.
13. Although the proposed design seeks to replicate the architectural features and form of Kilmorie Mews, by reason of its flat roof form, considerable areas of unrelieved elevations, use of oriel windows, zinc materials and lack of rich architectural detailing, it does not reflect the established character of the area.
14. The proposal would restrict views of the rear of No.70 Pennsylvania Road and the rear of some of the adjacent buildings, their open rear nature, and their associated detailing and historic built form, from parts of the DPPA and from the identified pedestrian route running past the site. This would be to the detriment of the character and appearance of the area.
15. I have had regard to the position, design, and effect of Kilmorie Mews on the immediate area, but it is not characteristic of the area and unlike the appeal proposal replaced a previous building that did not make a positive contribution to the character of the area. As such its existence does not justify the harm identified above. Furthermore, due to the detached nature of the proposal, predominant use of red brick and slightly different appearance, it would not read as a clear continuation of the Kilmorie Mews development.
16. I have also had regard to the General Issues facing the LCA as detailed in the CAA including the retention of architectural features, traffic problems creating noise and cluttered road signs. However, I am not convinced that the appeal proposal would address any of these issues given that it is not securing the retention of any features or directly aiding traffic problems.
17. As a result, the proposal would adversely affect the significance of the open space to the rear of the appeal property and adjacent row and their contribution to the wider Conservation Area. I conclude on this matter that the proposal would fail to preserve the character or appearance of the CA as a whole. I give great weight to the asset's conservation.
18. Accordingly, the proposal would harm the character and appearance of the area and fail to would preserve or enhance the character or appearance of the Longbrook Conservation Area. As such, it is contrary to Policies CP4 and CP17 of the Core Strategy February 2012 (CS), Saved Policies H2, DG1, DG4 and C1 of the Exeter Local Plan First Review (March 2005) (LP), Policies EN4, D1 and H1 of the Exeter St. James Neighbourhood Plan (March 2013) (NP). Amongst other things, these seek to achieve the highest appropriate density compatible with the protection of heritage assets and the character and quality of the local environment, pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, and ensure that the volume and shape of structures relates well to the character and appearance of the adjoining buildings and the surrounding townscape. Furthermore, they seek the use of materials that relate well to the locality, do

not result in significant harm to the landscape value of gardens and demonstrate good design quality. It is also contrary to the Framework insofar as it seeks to secure well-designed and beautiful places and the conservation and enhancement of the historic environment.

*Imbalance in the local community*

19. There is no dispute between the parties that there is a considerable need for additional purpose-built student accommodation in Exeter of an appropriate scale and location. Furthermore, there is no dispute between the parties that the Council's commitment under Policy CP5 of the Core Strategy (February 2012) (CS) to ensure at least 75% of the increase in student numbers are accommodated in Purpose Built Student Accommodation (PBSA) has not been met. I have no reason to disagree. In this regard, the proposal complies with CS Policy CP5 in terms of adding to the supply of housing through PBSA to meet the housing needs of the community. Notwithstanding this support in principle, the proposal is also subject to other development plan policies.
20. In relation to this, Saved Policy H5 of the Exeter Local Plan First Review 1995-2011 (LP) supports the development of student housing provided a number of criteria apply. Relevant to this appeal is criterion (b) that states that 'The proposal will not create an over concentration of the use in any one area of the city which would change the character of the neighbourhood or create an imbalance in the local community.'
21. In addition to LP Policy H5, the NP contains policy C3 related to 'Small Scale Purpose Built Student Accommodation'. This states that 'The development of small scale purpose built student accommodation will be permitted provided that the proposal would not prejudice the objective of creating a balanced community.' The supporting text to Policy C3 states that for the purpose of this policy, 'balanced community' is as per the description in the supporting text to Policy C1. The supporting text to NP Policy C1 in relation to this states that 'balance' is defined using the number of council tax exemptions in a given area as a proxy for student accommodation. It further states that when over 20% of properties in a defined area are council tax exempt, it is generally considered that additional HMOs would change the character of the area and undermine the maintenance of a balanced and mixed community.
22. With regard to this, the Council advise that No. 70 Pennsylvania Road provides student accommodation for up to 17 residents, with the adjacent Kilmorie Hall and Kilmorie Mews housing 96 students. I am also advised that 85% of the properties on Edgerton Park Road and a high percentage on Hillsborough Road are student HMO's with many other terraced houses in the vicinity also student HMO's. Furthermore, I note that the NP states that at the last census 42% of St James Ward were in full time education with 52.8% of the population aged between 19-25 by the 2021 census. In light of the above, and given the evidence from the appellant stating that not all students who live in private houses will be in properties registered as exempt from Council Tax, I have no doubt that the immediate area around the appeal site, already contains an imbalance in the community weighted towards students.
23. In light of this, and in the absence of persuasive evidence to the contrary, I find that the proposal would add to the over concentration of student accommodation in the immediate area, create a further imbalance in the local community and further undermine the objective of creating a balanced

community. This harm outweighs any benefit from the provision of further student accommodation for which I have acknowledged above that there is a need and for which there is support in principle under CS Policy CP5

24. The evidence in relation to PBSA not releasing student accommodation to C3 dwellings adds to my findings. Even if it were to result in the release of C3 dwellings, given the proposals small scale, any such benefit would be limited.
25. It follows from the above that the proposal would lead to an over concentration of student accommodation resulting in a harmful imbalance in the local community. As such, it is contrary to LP Policy H5 and NP Policy C3, the aims of which I have outlined above.

*Living conditions of occupiers of 68 and 70 Pennsylvania Road*

26. The proposed building would be two-storey in height and located in very close proximity to the rear elevation of No.70 Pennsylvania Road and to the rear elevation and garden with No.68 Pennsylvania Road. By reason of its height and very close position to, the proposed building would be highly visible from and would dominate and have an overbearing effect on the outlook from the rear of No.70 and from the rear elevation and garden of No.68.
27. Although I recognise that similar relationships have been created as a result of the construction of Kilmorie Mews, I understand that a previous building occupied that site. As such, the proposals are not directly comparable.
28. Due to the footprint of the proposed development covering a considerable part of the site, there is limited space remaining to provide usable shared outdoor space for both the existing occupiers of No.70 Pennsylvania Road and the proposed development. However, the outdoor space provided would be broadly similar in size to the existing outdoor space afforded to the rear of No.70 and to that provided as part of the adjacent Kilmorie Mews development and occupiers would be able to make use of the open space at the DPPA. I have had regard to the communal open space guidance in Chapter 7 of the Council's Residential Design Supplementary Planning Document (September 2010) (RDSPD), but I note that paragraph 7.1 states that the standards are flexible. As a result, on balance I find that the proposal would provide adequate outdoor space for the occupiers of number 70 Pennsylvania Road.
29. The appeal documentation infers that the proposed Shared Bin Store would be for use by both the occupiers of No.70 Pennsylvania Road and the occupiers of the proposed development. I note however that the appellant's Statement of Case states that bin storage for the existing occupiers of No.70 would be provided to the front of the building in a similar arrangement to that at No.72 Pennsylvania Road. I see no reason why a similar arrangement could not be provided and consider that suitable refuse and recycling storage could be provided to the front of No.70 subject to a condition requiring the submission and approval of details should I allow the appeal.
30. In conclusion, it follows that although the proposal would provide suitable outdoor space, and that refuse and recycling storage could be secured by condition for the occupiers of number 70 Pennsylvania Road, the proposal would harm the living conditions of the occupiers of numbers 68 and 70 Pennsylvania Road with particular regard to outlook. As such, the proposal is contrary to LP Saved Policy DG4 and NP Policy D1. Amongst other things, these

seek to ensure a quality of amenity which allows residents to feel at ease within their homes and gardens and demonstrate good quality design integrating with local surroundings.

31. For the same reasons the proposal is contrary to paragraph 135 of the Framework that states that decisions should ensure that developments create places with a high standard of amenity for existing and future users.

*Living conditions of future occupiers of the proposal*

32. While all of the windows to the communal Lounge Dining Kitchen area would be obscure glazed, this room would also benefit from the presence of a roof light providing some unrestricted upward outlook. Furthermore, each of the bedrooms would benefit from unrestricted outlook from a window. Given this, I find that the internal living conditions of future occupiers would be acceptable.
33. With regard to outdoor space, I have found above that the outdoor space provided would be broadly similar to that provided as part of the adjacent Kilmorie Mews development and that occupiers would be able to make use of the open space at the DPPA. Furthermore, I have found that the standards for outdoor space within the RDSPD are flexible. In light of this, and on balance, I find that the proposal would provide adequate outdoor space to serve the needs of future occupiers.
34. I have found above that refuse and recycling storage in relation to the existing use of No.70 Pennsylvania Road could be secured to the front of the property. As a result, I have no reason to find that the secure bin storage area proposed to serve the proposed development would not be of an adequate size.
35. In conclusion, it follows that suitable outdoor space and refuse and recycling storage (secured by condition) would be available. As such the proposal would not harm the living conditions of future occupiers of the proposed development, with particular regard to outlook, outdoor space and refuse storage. As such, the proposal would not be contrary to LP Saved Policy DG4, NP Policy D1 and the RDSPD. Amongst other things, these seek to ensure a quality of amenity which allows residents to feel at ease within their homes and gardens and provide sufficient external amenity space and demonstrate good quality design integrating with local surroundings.
36. For the same reasons the proposal would not be contrary to paragraph 135 of the Framework that states that decisions should ensure that developments create places with a high standard of amenity for existing and future users.

*Cycle storage*

37. The plans before me do not detail the provision of secure cycle parking. In the absence of such details, and given the limited amount of outdoor space proposed that I only find acceptable on balance, it has not been adequately demonstrated that there would be sufficient space available within the site to provide suitable secure cycle parking without reducing the extent of usable outdoor space to an unacceptable level. As a result, I do not find that this matter can be dealt with through the imposition of a condition.
38. I recognise the location of the site close to the University and City Centre, but cycle provision should be included to provide a range of transport options.

39. In conclusion on this main issue the proposal would not provide appropriate cycle storage. As such the proposal is contrary to LP Saved Policy T3, NP Policy D1 and Section 5 of the Sustainable Transport Supplementary Planning Document March 2013. Amongst other things, these seek to ensure that suitable cycle parking provision is provided to maximise the use of sustainable modes of transport and to ensure a high quality and well managed streetscape. It would also be contrary to Section 9 of the Framework that seeks to promote opportunities for cycling.

#### *Whether overdevelopment*

40. I have found above that the proposal would harm the character and appearance of the area and fail to preserve or enhance the character or appearance of the conservation area by reason of the design of the proposal and its close relationship to the adjacent terrace. Furthermore, I have found that the proposal would harm the living conditions of the occupiers of No's 68 and 70 Pennsylvania Road by reason of the close relationships and fails to establish that there would be adequate space for the provision of suitable cycle storage without unacceptably reducing the amount of outdoor space.

41. The combination of these factors demonstrate that the proposal represents overdevelopment of the site. As such it is contrary to CS Policies CP4 and CP17, LP Saved Policies H2, DG1 and DG4 and NP Policies EN4 and D1. Amongst other things, these seek the highest appropriate density compatible with the protection of heritage assets, local amenities, and the character and quality of the local environment, high standards of design, ensure that all designs promote local distinctiveness and contribute positively to the visual richness and amenity of the townscape, do not result in significant harm to the landscape value of private gardens, and demonstrate good design.

#### **Other Matters**

42. My attention has been drawn to a number of appeal decisions<sup>1</sup>. However, I have been advised that all but one of these decisions are outside of the St. James Ward and are different in scale and not in a backland location. The appeal decision in the Ward at 68-72 Howell Road was for a large scale PBSA that was subject to a different NP policy and was not refused planning permission on the basis of any harm to the character and appearance of the area or living conditions of existing occupiers. As a result, these appeal decisions are not directly comparable to the appeal before me, that I am in any case required to consider on its merits.

43. Evidence from the appellant states that matters related to the Conservation of Habitats and Species Regulations 2017 (the Regulations) could be mitigated in line with the South East Devon European Site Mitigation Strategy. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter or the related duties under the Regulations further.

44. I note the appellant's comments in relation to the processing of the planning application, however these have no bearing on my decision which is based on the planning merits of the development.

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<sup>1</sup> APP/Y110/W/19/3227714, APP/Y110/W/193238758, APP/Y1110/W/17/3178667, APP/F0114/W/20/3244862, APP/Y1110/W/21/3288883 and APP/Y1110/W/23/3325492

## **Planning Balance and Conclusion**

45. Given the small scale and localised effect of the proposal, it would result in 'less than substantial harm' to the Conservation Area as a designated heritage asset. It is important to note that 'less than substantial harm' does not equate to a less than substantial planning objection.
46. Paragraph 208 of the Framework requires that 'less than substantial harm' should be weighed against the public benefits of the proposal. Whilst I acknowledge the proposal would result in some public benefits, i.e. the provision of student accommodation, boosting the supply of homes, continued growth of the University and associated contribution to the local economy, jobs and spend, and associated jobs and spend from construction and resulting occupants, given the small scale of the proposal, these do not outweigh the 'less than substantial harm' to the Conservation Area as a whole.
47. As stated above, the Council advise that they currently have 5 years and 1 month supply of deliverable housing sites and no shortfall. I have no evidence before me to lead me to a different conclusion and the appellant has not provided evidence rebutting the latest supply figures. As a result, paragraph 11.d) of the Framework is not engaged. Furthermore, even if the Council were unable to demonstrate the required supply of deliverable housing sites, given the harm I have identified to the heritage asset provides a clear reason for refusing the development proposed, paragraph 11.d) ii. of the Framework would not be engaged.
48. Although I have found no harm, subject to conditions, with regard to the provision of outdoor space and refuse and recycling provision, the proposal would cause harm to the character and appearance of the area, fail to preserve or enhance the character or appearance of the conservation area, would harm the living conditions of neighbouring occupiers and fails to provide adequate cycle parking provision. In my view, these are the prevailing considerations, and the proposal should be regarded as being in conflict with the development plan, when read as a whole.
49. There are no material considerations, including the Framework and benefits outlined above, that indicate that the proposal should be determined other than in accordance with the development plan.
50. For the above reasons, and having considered all other matters raised, I therefore conclude the appeal should be dismissed.

*C Rose*

INSPECTOR