



Appeal Decision

Site visit made on 1 October 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2025

Appeal Ref: APP/Y1110/W/24/3341923

Higher Riverdale, Exe Street, Topsham, Devon EX3 0JL

- 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 Richard Bradford against the decision of Exeter City Council.
 - The application Ref is 23/0914/FUL.
 - The development proposed is conversion/remodelling of commercial storage building to form 1 dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Further written comments regarding these changes were submitted by the main parties. This decision is based on the current Framework and has taken account of the further representations made on this.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, and the extent to which it would preserve or enhance the character or appearance of the Topsham Conservation Area (CA);
 - whether the proposed development would provide satisfactory living conditions for the future occupants having regard to the quality of outdoor private amenity space, and outlook; and
 - the effect of the development on the living conditions of both future occupiers and the occupiers of neighbouring residential properties having regard to privacy.

Reasons

Character and appearance

4. The Topsham Conservation Area Appraisal and Management Plan (June 2009) (the Appraisal) states that this area of the CA is characterised by the close-grained pattern of streets and back courts, with the latter being lined with a variety of buildings including long, narrow former warehouses and workshops, now converted into houses. The significance of this part of the CA is derived, in part,

from its retained medieval character, the variety, and high quality of, buildings, and its strong sense of local identity. The appeal building is identified in the Appraisal as a building that makes a neutral contribution to the CA.

5. The proposed development would involve the construction of a new dual pitched roof, which would result in the height of the building being increased. The roof would be clad in natural slate and solar panels would be installed on the roof slope facing Exe Street. Aluminium windows would be installed in the building, including the two new dormer windows.
6. The alterations to the external form of the appeal building would result in its commercial appearance being lost and a residential built form being introduced on to the site. Whilst the site is to the rear of commercial premises on Fore Street, the area around the site is distinctly residential established by the presence of numerous dwellings, including the dwellings that I saw being constructed adjacent to the access to the site. There is a commercial building adjacent to the site, but it is identified in the Appraisal as not making a positive contribution to the CA.
7. As such, the proposed change of the design and form of the building from a commercial building to a residential dwelling would be in keeping with the prevailing character of the CA immediately around the site. Furthermore, the proposed increase in massing and bulk would result in a building that is in proportion with the existing residential properties around it and the proposal would therefore not visually compete with those dwellings. The Council has concerns that there would be a resulting cramped arrangement of built form. However, given the close-grained nature of the immediate area, the proposal would not appear unduly at odds with the pattern and placement of surrounding residential development.
8. Nevertheless, the use of a non-timber material, such as aluminium, for the windows would result in the introduction of an incongruent material into the CA. Although viewed from a distance, such material would read as a visually jarring addition to the immediate street scene that fails to respect or reflect the predominant character and finish of fenestration in the CA. Within the immediate context it would appear overtly contemporary and at odds with the otherwise largely traditional feel of this section of the CA.
9. My findings in this regard are supported by the Appraisal, which makes reference to the installation of uPVC and aluminium windows undermining the character and appearance of the CA, which I have found to be the case in this instance. Whilst aluminium windows can be detailed to assimilate into a traditional built setting, I have no details before me demonstrating that the proportions, finish and glazing thickness of the windows would be similar to a timber unit. Although the visual impact arising from the installation of solar panels on the roof of the building could be mitigated through the use of an appropriately worded condition to control matters such as the colour of the panels, the windows are a fundamental matter in the overall appearance of the building and therefore their acceptability should be established prior to determination. As such, I am not persuaded that the windows would not harm the significance of the CA.
10. For these reasons, the proposal would be a visually intrusive feature. It would cause visual harm to the site and the contribution it makes to the surrounding character and appearance. As such, it would fail to preserve or enhance the character or appearance of the CA. In terms of the harm to the CA, the Framework

advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Given the scale and nature of the proposals, I consider that the degree of harm would be less than substantial in this instance, but nevertheless of considerable importance and weight. Under such circumstances the Framework indicates that this harm should be weighed against the public benefits of the proposal.

11. Turning to the proposal's benefits, it would contribute a single dwelling towards the housing stock in the district, close to the town centre services and among established residential uses, thus adding to the housing mix and choice in the area. However, even whilst acknowledging the Council's shortfall in housing delivery, a single residential unit would not make a significant difference to the housing supply situation and is a benefit that attracts only moderate weight. There would also be associated social and economic benefits through providing support to the local economy and local community facilities. However, such contributions are limited given the small-scale nature of the development.
12. Even when taken together, the above stated benefits are insufficient to outweigh the less than substantial harm to the CA and the considerable and important weight it carries.
13. For these reasons, the proposed development would result in unacceptable harm to the character and appearance of the area and would fail to preserve or enhance the character or appearance of the CA. Consequently, the proposal would conflict with Policy CP17 of the Exeter Local Development Framework Core Strategy (2012) (CS) and Policies C1 and DG1 of the Exeter Local Plan First Review (2005) (LP), which collectively seek, in part, for development to complement or enhance Exeter's character and local identity, materials to relate well to the palette of materials in the locality and reinforce local distinctiveness, and development within a conservation area to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

Living conditions for future occupants – outdoor space and outlook

14. The preamble to Policy DG4 of the LP sets out that private garden space may vary in size but should not normally be smaller than 55 square metres. The size of garden space is expanded on in the Council's Residential Design Supplementary Planning Document (2010) (SPD). It states that the orientation of the garden space should be taken into account and a two bedroom dwelling that faces south should have a minimum garden space of 45 square metres. The SPD is clear that roof gardens and balconies will not count towards private garden space provision.
15. The submitted plans indicate that the enclosed courtyard that would serve the proposed dwelling would have a floor area of 22.18 square metres and the roof terrace at first floor level would potentially offer an additional 5.88 square metres of outdoor space. As such, the enclosed courtyard would fall significantly below the minimum garden space provision. Even if the roof terrace was included in the garden space provision, the minimum required garden space would still not be met.
16. Even noting the proposed occupation level of the dwelling and its proximity to the town centre, this external space would be unlikely to comfortably support the day-to-day requirements of a household of this size, such as sitting out, hanging

washing, or placing of residential paraphernalia. As such, it would fail to support adequate living conditions.

17. I acknowledge the appellant's assertion that the minimum garden space is intended for new build dwellings on housing estates and not the re-use of an existing building, but such a distinction is not made in the development plan. Furthermore, the SPD is clear in the separate requirements for houses and flats. Given that the proposal is for a house, I have used the figures quoted for a house when considering the appropriateness of the garden space for the proposed dwelling.
18. The external courtyard would also be enclosed by 1.8m high walls with planting. While this would provide a sense of separation from surrounding uses, the enclosure of the space, combined with its limited depth, would restrict the outlook experienced from both the courtyard itself and the ground floor rooms of the proposal. The proximity and size of these walls and the built form of adjacent properties beyond would lead to both the courtyard and ground floor rooms feeling unduly enclosed, restricting the enjoyment of their use by future occupiers and further impacting living conditions.
19. I note that there are examples of other dwellings permitted by the Council that appear to have small gardens. However, as I have not been provided with the background to the decisions to allow those small gardens, it is not possible to make a meaningful comparison between those properties and the appeal site. The presence of those nearby small gardens therefore does not alter my judgement, which relates to the site-specific circumstances of the proposal before me.
20. For these reasons, the proposed development would not provide satisfactory living conditions for the future occupants having regard to the provision of outdoor private amenity space and outlook. Consequently, the proposal would conflict with Objectives 3 and 9 of the CS and Policy DG4 of the LP, insofar as they seek to provide the opportunity for people to live in a decent home and for development to raise the standard of urban living. The proposal would also conflict with the guidance of the SPD, insofar as it expands on the local policy requirement for a suitable level of amenity to be provided for future residents.

Living conditions of existing occupants and future occupiers - privacy

21. A person stood on the roof terrace of the proposal would potentially be able to look into the first floor windows of Nos 1 and 2 Higher Riverdale. However, a 1.7 metres high frosted glass panel would be installed on the side of the terrace facing towards those properties. This would prevent clear and direct views into the first floor windows of Nos. 1 and 2 Higher Riverdale from the proposal, in addition to ensuring that occupiers of Nos 1 and 2 Higher Riverdale would not have intrusive views of either the proposed terrace or the adjacent room that it serves. Whilst I acknowledge the limited distance between the terrace and neighbouring first floor windows, had the proposal been acceptable in all other manners, the attachment of an appropriately worded condition ensuring the installation of the panel would result in the privacy of the future occupiers of the proposal and the occupiers of Nos 1 and 2 Higher Riverdale not being materially compromised in this respect.
22. In terms of the privacy of the ground floor of the proposal, and notwithstanding my conclusions on outlook above, an acceptable level of privacy would be afforded

within the bedrooms and courtyard due to the proposed pergola and boundary walls limiting clear and direct views into these spaces.

23. For these reasons, the proposed development would not cause material harm to the living conditions of the occupiers of neighbouring residential properties or to future occupiers of the proposal, having regard to privacy. Consequently, the proposal would comply with Objectives 3 and 9 and Policy CP17 of the CS and Policy DG4 of the LP, insofar as they seek to ensure that an acceptable level of privacy for existing and future residents is provided. The proposal would also comply with the SPD, insofar as it expands on the local policy requirement for satisfactory private space to be provided for existing and future residents.

Other Matter

24. The appellant has expressed concerns that the proposal would result in a precedent for resisting urban reuse proposals. However, each application is to be decided on its own merits, as I have done in this case. I further acknowledge the issues raised regarding the perceived conduct of the Council. Nevertheless, this does not alter my findings above on the planning merits of the case.

Planning Balance

25. The Council accepts it cannot demonstrate a five-year housing land supply. In these circumstances, Paragraph 11(d)(i) of the Framework states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. Designated heritage assets, which include conservation areas, are an example of such areas/assets.
26. I have already concluded that the proposed development would cause unacceptable harm to the character and appearance of the area, would fail to preserve or enhance the character or appearance of the CA, and would not provide acceptable living conditions for the future occupiers of the proposed development. As such, the proposal conflicts with the development plan when taken as a whole.
27. The harm to the CA, which is not outweighed by the public benefits identified earlier, means that the heritage policies in the Framework provide a strong reason for refusing the development proposed. Paragraph 11(d)(ii) is not therefore engaged.

Conclusion

28. For the reasons given above, the proposed development would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. As such, the appeal should be dismissed.

K Reeves

INSPECTOR