



Appeal Decision

Site visit made on 23 April 2025

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 May 2025

Appeal Ref: APP/Y1110/W/24/3355392

Sydenham House, Blackboy Road, Exeter EX4 6SX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ulpian Data Ltd against Exeter City Council.
 - The application Ref is 23/1395/FUL.
 - The development proposed is demolition of 5 No garages and hardstanding, and erection of 2 No new semi-detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to a failure to determine the application within the prescribed period and the Council has highlighted its putative reasons for refusal, had it been determined. The Council's main concerns relate to the effect of the proposal on the character and appearance of the area that is designated as a conservation area, the living conditions of future occupants, and of those of the occupiers of 2-5 Bowe Court. The appellant has had the opportunity to comment and would therefore not be prejudiced by them forming the basis for the main issues.
3. The appeal site address is taken from the application form. It is however acknowledged that the proposal fronts Jesmond Road. I have dealt with the appeal on that basis.

Main Issues

4. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance of the Belmont Conservation Area (CA);
 - the effect of the proposed development on the living conditions of the occupiers of 2-5 Bowe Court, with particular regard to outlook; and
 - whether the proposal would provide suitable living conditions for future occupiers with regard to outlook, and internal and external spaces.

Reasons

Character and appearance

5. The appeal site comprises a small plot that includes a block of single storey garages which have a tired, uncomplimentary appearance. These garages front onto a narrow lane. On the opposite side of this lane and at a lower level is a terrace of small scale, 2 storey properties known as Bowe Court. Within the surrounding area, there is a mix of development style including a very tall block of flats, an extended 3 storey terrace on the street corner, a cottage, and long residential gardens. There tends to be generous undeveloped space afforded to and around the built form.
6. The appeal site is located within the CA where there is a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special regard to the desirability of preserving or enhancing its character or appearance; and where great weight should be given to the asset's conservation. The significance of the CA derives from its historic routes and suburb development in the late 18th and 19th centuries. It is characterised by a mix of development from modern multi storey buildings to large formal properties and small terraced cottages. There are also numerous terraces that display strong architectural features, with a large number of listed and other historic buildings.
7. The garages at the appeal site are identified in the Council's CA Appraisal Management Plan as being in a cluster of built form that does not make a positive contribution to the character of the area. Nevertheless, it notes that it is important that development respects the existing built environment of the CA.
8. In that context, the proposal would make use of locally sympathetic brickwork including a parapet and muted green roof. These design features would go some way towards complementing the CA. While efforts to reduce the overall building height have been incorporated into the design, it would still stand unusually tall in such close proximity to the narrow lane it would adjoin. This incongruity would be further exacerbated by its positioning above the properties at Bowe Court. Although not particularly visible from Blackboy Road, spacious gaps between buildings would be significantly diminished as a result of the development. Furthermore, even though elements of the modern design are not objectionable, the large, angled front windows are very far removed from anything like them nearby. Consequently, the eye would be drawn to them as stark features.
9. I therefore conclude on this main issue that the proposal would fail to preserve or enhance the character or appearance of the CA. As such, there would be conflict with policies CP4 and CP15 of the Exeter City Council Core Strategy, and policies C1 and DG1 of the Exeter Local Plan First Review (LP). Collectively, and in this respect, these policies seek to preserve or enhance the conservation area by ensuring developments are of an appropriate height, whilst being compatible with the urban structure and street pattern.

Bowe Court living conditions

10. The proposed building's roof has been designed to meet a 25 degree line that would be likely to avoid any harmful loss of natural light reaching Bowe Court. While there is a very small amount of set back from the lane, as explained in the main issue above, the building would nevertheless stand unusually tall above these properties. Even though harmful overlooking would be avoided by the orientation of windows and obscure glazing, the development would loom over Bowe Court. Existing residents would consequently look out on a substantial block

of built form that would be unlikely to make them feel at ease within their own homes as required by LP Policy DG4.

11. I therefore conclude on this main issue that the proposed development would harmfully affect the living conditions of the occupiers of 2-5 Bowe Court, with particular regard to outlook. There would be conflict with LP Policy DG4.

Living conditions of future occupiers

12. The proposed properties would include a considerable amount of obscure glazing to overcome potential privacy conflicts. In that respect, the Council is concerned that the outlook for future occupiers would be harmfully compromised by this, together with low ceiling heights and limited light due to the building's orientation. However, the scheme includes a good number of large rooflights and expansive balcony glazing doors. These features would allow adequate levels of light into the open plan living space. Views to the rear, through external private spaces, and from the clear glazed windows facing up Jesmond Road, would collectively deliver a suitable outlook for future occupiers.
13. While the properties would not provide gardens or an amount of space promoted in the Council's Residential Design Guide Supplementary Planning Document, they would nevertheless have generous balcony sitting out space. It is noted that dwellings have been applied for, but the design of the units is more akin to duplex flats with parking at the ground floor. The 2-bed accommodation would be compact and therefore unlikely to be suited to families, where a larger garden space would be expected. Moreover, there is a range of public open space in very close proximity to the appeal site. Accordingly, future occupants would be provided with a sufficient quality of private external space.
14. I therefore conclude on this main issue that the proposal would provide suitable living conditions for future occupiers with regard to outlook, and internal and external spaces. As such, there would be no conflict with LP Policy DG4.

Other Matter

15. I have paid regard to the appellant's comments in respect of the processing of the application, though these have no bearing on the outcome of the appeal.

Planning Balance and Conclusion

16. The proposal would lead to less than substantial harm to the significance of the designated heritage asset affected. Paragraph 215 of the National Planning Policy Framework (the Framework) states that in such circumstances the harm should be weighed against the public benefits. The proposal would deliver 2 additional homes in a sustainable location, built to the Nationally Described Space Standard. It would make a modest contribution to the supply of new homes in a situation where the Council is unable to demonstrate a 5-year supply of deliverable housing sites, and the scheme would also provide a temporary boost to the economy during the construction phase. These can all be considered as public benefits.
17. Against the benefits I must weigh the harm to heritage assets. The Framework states that great weight should be given to the assets' conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to significance. Any harm to the significance of a designated heritage asset should require clear and convincing justification.

18. In the heritage balance, I have given significant weight to the benefits of housing delivery and some, more limited weight to the economic benefits. However, the adverse impact on the CA is a matter of considerable importance and weight. Overall, I consider that the harm to heritage assets outweighs the benefits.
19. Paragraph 11 d) of the Framework indicates that, where the requisite housing land supply cannot be demonstrated, permission should be granted unless:
 - i. the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole having particular regard to key policies for directing development to sustainable locations, making effective use of land, and securing well-designed places. Footnote 7 states that policies in the Framework relating to designated heritage assets qualify as protection policies under the first limb of paragraph 11 d). Consequently, the tilted balance in the second limb does not apply and the proposal does not benefit from the presumption in favour of sustainable development within the Framework.
20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan 'unless material considerations indicate otherwise', and this is reaffirmed in the Framework.
21. While there would be no harm to the living conditions of future occupiers, this would not outweigh the identified harm. I therefore conclude that the proposal conflicts with the development plan taken as a whole, and there are no material considerations of such strength or significance as to justify a decision otherwise than in accordance with the development plan. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed. Consequently, planning permission is refused.

J Hills

INSPECTOR