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# Appeal Decision

Site visit made on 9 April 2024

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

**an Inspector appointed by the Secretary of State**

**Decision date: 13.05.2024**

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**Appeal Ref: APP/Y1110/W/23/3325492**

**68-72 Howell Road, Exeter EX4 4LZ**

- 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 Sam Williams against the decision of Exeter City Council.
  - The application Ref is 21/1014/FUL.
  - The development proposed is Demolition of garage workshop (Maximum Motors) and construction of four 3-storey (plus basement) purpose-built student accommodation units, numbering 26 bedrooms in total.
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## Decision

1. The appeal is allowed and planning permission is granted for Demolition of garage workshop (Maximum Motors) and construction of four 3-storey (plus basement) purpose-built student accommodation units, numbering 26 bedrooms in total at 68-72 Howell Road, Exeter EX4 4LZ in accordance with the terms of the application, Ref 21/1014/FUL, subject to the conditions in the attached schedule.

## Application for costs

2. An application for costs was made by Mr Sam Williams against Exeter City Council. This application is the subject of a separate Decision.

## Main Issue

3. The main issue is whether the appeal site is an appropriate location for purpose-built student accommodation (PBSA), with particular regard to the local development strategy.

## Reasons

### *Whether appropriate location*

4. The local development strategy relevant to the appeal proposal comprises saved policies in the Exeter Local Plan First Review 1995-2011 (LP), the Core Strategy (Adopted February 2012) (CS) and the Exeter St James Neighbourhood Plan March 2013 (NP).
5. Reference has been made in the appeal evidence to the Emerging Local Plan: The Exeter Plan (2020-2040) but as this is at the early stages of preparation it carries very little weight.
6. Saved Policy H5 of the LP supports the conversion of dwellings to houses in multiple occupation (HMOs) and the provision 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.'

7. The NP post-dates the LP and contains policies C1, C2 and C3 related to Houses in Multiple Occupation, 'Large Scale Purpose Built Student Accommodation' and 'Small Scale Purpose Built Student Accommodation'. As these NP policies cover houses in multiple occupation and student housing also covered under Policy H5 of the LP, and both set out to achieve similar aims with regard to the location of student accommodation, I do not find conflict with policy H5 of the LP under the terms of paragraph 30 of the National Planning Policy Framework (the Framework).
8. The wording to Policy H5(b) is clear that it relates to an over concentration of the use in any one area rather than an over concentration of students or other occupiers. As the policy deals with various types of residential use, it follows that the policy differentiates between the different types of residential use that it deals with. In relation to the appeal, this equates to preventing an over concentration of PBSA with 'over concentration', 'area of the city' and 'imbalance in the local community' not defined in the policy.
9. In relation to this, I have had regard to the evidence from the Council and interested parties regarding the concentration of uses/HMOs in the area. The Council's evidence states that within 250m of the appeal site there are 314 beds in four private PBSA. The Council do not provide evidence of the total number of beds in the area as a comparison. The provision of PBSA is less within 150m of the site. Nonetheless, the provision of four PBSA's plus the appeal proposal within 250m or two within 150m, would not represent an over-concentration. I have not been provided with detailed evidence in relation to the number of PBSA covering other areas, or within the St James Ward area as referenced in the reason for refusal. As a result, I cannot conclude an over concentration of PBSA in the Ward, or any other area. On the basis that an over concentration of PBSA has not been demonstrated, I cannot conclude that the proposal would change the character of the neighbourhood or create an imbalance in the local community contrary to Policy H5(b) of the LP.
10. Returning to the NP, the Introduction to the Community section on page 25 encourages appropriate housing to improve the social balance of the ward. It goes on to state that there is currently an imbalance between the number of HMOs and other forms of residential property and that this is being addressed through an Article 4 Direction which removes permitted development rights for HMO development. The Introduction states that the high proportion of HMOs has arisen as a result of demand primarily from students, and that due to the close location of the NP area to the University there is always likely to be a high proportion of student residents. It further states that achieving a suitable balance between student and permanent residents will be achieved by restricting HMO development and encouraging an appropriate range of services and housing types to meet the needs of all sectors of the community. It is noteworthy that this introduction focuses on HMOs and does not mention PBSA.
11. Under the Community Balance heading on page 25 of the NP, figures are provided of people in full time education and age. It states that the very high proportion of people aged 18-24 and the impact of HMO conversions are leading to a lack of balance with some parts of the ward having lost almost all

of their permanent resident population. It further states that the proportion of students living in residential streets can no longer be absorbed without affecting the very neighbourhood they wish to live in. It also states that the NP seeks to halt the conversion of properties to HMOs and ensure that the area stays attractive to all sectors of the population providing a definition of the term 'community balance' and how such a balance can be considered in relation to HMOs. It is again relevant to note that the Community Balance section on page 25 does not mention PBSA.

12. Policies C1, C2 and C3 of the NP provide the policy considerations to address the matters raised in the preceding Introduction and Community Balance sections.
13. Policy C1 of the NP relates to Houses in Multiple Occupation. The appeal proposal does not relate to the change of use to a house in multiple occupation and as a result Policy C1 is not a relevant policy for the appeal to be considered against. NP Policies C2 and C3 deal with large and small scale PBSA. The supporting text to both policies clarifies that Policy C2 relates to proposals with 10 or more student beds with Policy C3 related to developments providing fewer than 10 student beds. As the proposal seeks provision of 26 beds, Policy C2 is the relevant policy in relation to this appeal.
14. The supporting text to NP Policy C2 states that there are relatively few opportunities for large scale development but with major regeneration to parts of Sidwell Street providing a substantial amount of PBSA where such proposals can be properly planned for. It further states that in other parts of St James, development is less easy due to the residential character of the neighbourhood and tight pattern of streets and spaces. Policy C2 follows this and states that large scale PBSA will be permitted in areas where it can be properly integrated into the urban area. The policy states that this means a) that are not predominately characterised by intact streets of traditional terraced, semi-detached and detached forms of 2-3 storey residential development; b) where the servicing and parking requirements could be achieved with no unacceptable impact on the amenity of the adjacent area for residents; and c) where the scale and massing of any PBSA proposed would be broadly similar to that of surrounding buildings.
15. With regard to criteria a), the location around the appeal site comprises some intact streets of traditional terraced, semi-detached and detached forms of 2-3 storey residential development. However, due to the appeal site being in non-residential use comprising a single-storey building, its relationship to the high brick wall opposite the site and enclosing Horseguards, and its relationship to the prison further along the road, the appeal location is not predominantly characterised by intact streets of traditional residential development. Furthermore, the appeal site comprises a large gap between terraces of residential development, providing a location and opportunity where PBSA can be properly integrated into the area in accordance with the policy. This is reflected by the proposal also satisfying criterion b) and c) to Policy C2 in terms of being able to provide adequate services and parking, no unacceptable impacts on the living conditions of the adjacent area for residents and where the scale and massing is broadly similar to that of surrounding buildings. It is noteworthy that the Council raise no concerns with regard to the servicing and parking, living conditions of adjacent residents and scale and massing of the proposal and I have no reason to disagree.

16. The reason for refusal and the comments from Exeter St James Community Trust Ltd state that the proposal conflicts with the overarching aims of the NP. In relation to this, I have had regard to Section 3 of the NP titled 'What the Plan Aims to Achieve'. This includes building on new planning rules to restrict HMO development and rebalance the community adding weight to the Article 4 direction and planning rules which restrict HMO development in some parts of the ward. It therefore follows that these aims are achieved through assessment of planning applications against the stated policies. As I have found above that the proposal would comply with Policy C2 of the NP, it follows that the proposal would not harm the stated aims of the NP. Furthermore, any additional aims outside of a policy itself do not have the same force as a policy.
17. I acknowledge that Policy C3 of the NP supports small scale PBSA where this would not prejudice the objective of creating a balanced community. I further acknowledge that the supporting text to this policy clarifies that small scale PBSA can have the same impact on community balance as the conversion of properties to HMOs. However, Policy C2 of the NP and its supporting text do not contain the same stated objectives or state that the 'balanced communities' description under policy C1 apply to it. Whilst it may be unexpected that such considerations apply to small scale PBSA and not large scale PBSA, they are not stated as applying to large scale PBSA and policy C3 is not a relevant policy in relation to the current appeal.
18. My attention has been drawn to Policy CP5 of the CS that states that PBSA should be provided to meet housing need. The supporting paragraph 6.28 clarifies that '75% or more of additional student numbers should be accommodated in purpose built student accommodation' located on, or close to the University Campus or in the City Centre. I have been advised that this target has not yet been met.
19. Furthermore, my attention has also been drawn to Exeter City Council Supplementary Planning Guidance for development related to the University of Exeter (June 2007) (SPD). It is a material consideration in the determination of this appeal. The SPD details nine principles. These principles include seeking the provision of as much purpose-built student housing as possible to reduce the impact on the private sector housing market, recognises that high density managed accommodation on appropriate sites will need to make a significant contribution to meeting future needs, and favours provision of further student accommodation in general locations including the City Centre. Even acknowledging the 2015 High Court Judgement and lack of evidence demonstrating that PBSA leads to the release of market homes from student occupation, the proposal would help to assist with these principles through the provision of PBSA on an appropriate site close to both the University and the City Centre.
20. It follows from the above that I conclude that the proposal is an appropriate location for purpose-built student accommodation, with particular regard to the local development strategy. As a result, the proposal complies with Policy H5 of the LP and Policy C2 of the NP. Furthermore, it would not conflict with the stated overarching aims of the NP or paragraph 8 of the Framework with regard to supporting strong, vibrant and healthy communities.

## Other Considerations

21. The appeal site falls within the Longbrook Conservation Area (LCA). Residential development in the immediate area is generally characterised by red brick terraces close to the pavement edge commonly arranged over three floors with the upper floor within the roof space. A number of these terraces comprise attractive architectural detailing including the use of brick banding features, window headers, chimneys and small detailed dormer windows. These elements give the area architectural merit and cohesion and together form the significance of this part of the LCA.
22. In contrast, the existing building on the appeal site is a functional brick building with some large window openings over a single floor set back slightly from the pavement under a simple corrugated roof. As a result, the existing building and site do not positively contribute to the character or appearance of the LCA.
23. The proposed building would be finished in red brick and form a terrace with the appearance of three floors with an upper floor within the roof from Howell Road mimicking the nearby terraces. The building would comprise architectural detailing with similar decorative brick bands, window headers, small dormer windows and chimneys again reflecting the nearby terraces. Windows would be timber double-glazed of a sash design appropriate to the area. Although the building would appear as four-storeys to the rear due to the provision of a basement catering for changing levels, the site backs onto terraces of three-storey residential properties. As such, the scale of development would be appropriate and would not be highly visible from Blackall Road.
24. As a result of the above, the proposal would significantly enhance this part of the LCA. It is noteworthy that the Council came to a similar conclusion in this regard. It follows from the above that the proposal would enhance the character and appearance of the Longbrook Conservation Area. In accordance with the duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
25. The proposal would provide suitable provision for the storage and collection of refuse and recycling with outdoor space of a sufficient size provided on site.
26. There is no planning policy requirement for the development to provide affordable housing. I have not been provided with any planning policies designating the site for employment purposes or seeking the retention of the existing garage, building or site for employment or any other service, purpose or value.
27. Given the location of the site close to the City Centre and given that it is accommodation for students located close to the University, there is no requirement for any off-street car parking. In light of the location of the site close to a range of services and facilities, and given the scale of the proposal, it would not lead to any harmful levels of traffic congestion. It is noteworthy that the Council came to similar conclusions in these regards.
28. To ensure that the occupiers of the PBSA do not create unacceptable levels of noise and disturbance or have a lack of pride in the area, a condition can be imposed to ensure that the development is not occupied until a management plan has been submitted to and approved by the Council. The management

plan can ensure details such as staff support, student discipline, security and arrival and departure procedures are agreed and implemented.

29. The proposal was amended during the consideration of the planning application to address concerns regarding any harm to the living conditions of nearby occupiers.
30. I have had regard to the concerns from Exeter St James Community Trust Ltd regarding the limited consultation by the appellant. While such consultation is encouraged by the Framework, the lack of original consultation carries only limited weight in my consideration given the subsequent opportunities for the Trust to provide its comments and views on the proposal as part of the planning application and consideration of this appeal.

### **Conditions**

31. I have had regard to the tests in the Framework in relation to conditions, and the planning conditions in the Council's Planning Committee Report. In addition to the standard time condition, it is necessary for a condition to confirm the approved plans in the interests of certainty.
32. A pre-commencement condition is necessary to ensure that a construction environment management plan is submitted before works commence in the interests of highway safety and the living conditions of nearby occupiers during construction. Alongside this, a pre-commencement condition is required to ensure suitable provision for deliveries, plant, machinery and vehicles during construction in the interest of protecting the living conditions of nearby occupiers.
33. A further pre-commencement condition is required to ensure a full site investigation and any necessary mitigation takes place in relation to contamination in the interests of the living conditions of future occupiers.
34. Two further pre-commencement conditions are required to ensure that the development achieves a BREEAM excellent standard and to ensure details of sustainable design and construction methods are submitted, approved and carried out. These are required in the interests of delivering sustainable development.
35. Conditions are required to ensure development is only carried out following a contract for demolition and to ensure the submission and approval of samples of materials and external details in the interests of protecting the character and appearance of the conservation area.
36. A condition is required to ensure the submission and approval of details for the disposal of surface water in the interests of protecting the living conditions of nearby occupiers and to prevent damage to the highway.
37. Conditions are required to ensure the submission and approval of any external lighting details prior to their installation, to ensure the submission and approval of a management plan to ensure the proper management of the site. These are required in the interests of protecting the living conditions of nearby occupiers.
38. A condition is required to ensure the suitable provision of secure cycle parking in the interests of reducing carbon emissions.



39. A condition is required to ensure the submission of a landscaping scheme and for the retention of planting in the future in the interests of protecting the character and appearance of the conservation area.
40. A condition is required to ensure provision for nesting swifts in the interests of enhancing biodiversity.
41. A condition is required restricting the occupation of development to students, as this is the development applied for and as the development may not be suitable for unrestricted residential accommodation.
42. I have slightly amended the wording of some of the conditions and removed any 'tailpieces' in the interests of brevity, certainty and clarity.

### **Conclusion**

43. For the reasons given above the appeal should be allowed.

*C Rose*

INSPECTOR

### **\*\*\*SCHEDULE OF CONDITIONS\*\*\***

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Drawing No. 3615.100 Site Location Plan;
  - Drawing No. 3615.P.201 Revision D Site Plan;
  - Drawing No. 3615.P.202 Revision D Colour Site Plan;
  - Drawing No. 3615.P.203 Revision E Lower Ground Floor Plan in Situ;
  - Drawing No. 3615.P.204 Revision E Ground Floor Plan in Situ;
  - Drawing No. 3615.P.205 Revision D First Floor Plan in Situ;
  - Drawing No. 3615.P.206 Revision D Second Floor Plan in Situ;
  - Drawing No. 3615.P.207 Revision D Proposed Elevations;
  - Drawing No. 3615.P.208 Revision C Contextual Section and Front Elevation;
  - Drawing No. 3615.P.209 Proposed Sections;
  - Drawing No. 3615.SK0601 Revision A Bin Provision Extract;
  - Drawing No. 3615.SK1209 Revision A Section E\_E;
  - Drawing No. 3615.SK1404 Proposed Detailed Sections.
- 3) No development shall occur until a Construction and Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Notwithstanding the details and wording of the CEMP, the following restrictions shall be adhered to:

A. There shall be no burning on site during demolition, construction or site preparation works;

B. Unless otherwise agreed in writing, no construction or demolition works shall be carried out, or deliveries received, outside of the following hours: 0800 to 1800 Monday to Friday, 0800 to 1300 on Saturdays, and not at all on Sundays and Public Holidays;

C. Dust suppression measures shall be employed during construction to prevent off-site dust nuisance.

The approved CEMP shall be adhered to throughout the construction period.

- 4) No part of the development hereby approved shall be commenced until adequate areas shall have been made available within the site to accommodate operatives' vehicles, construction plant and materials in accordance with details that shall previously have been submitted to, agreed and approved in writing by the Local Planning Authority and retained for the construction period.
- 5) No development shall take place on site until a full investigation of the site has taken place to determine the extent of, and risk posed by, any contamination of the land and the results, together with any remedial works necessary, has been agreed in writing by the Local Planning Authority. The buildings shall not be occupied until the approved remedial works have been implemented and a remediation statement submitted to the Local Planning Authority detailing what contamination has been found and how it has been dealt with, together with confirmation that no unacceptable risks remain.
- 6) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved shall achieve a BREEAM excellent standard (minimum 70% score) as a minimum. Before the commencement of development of such a building, the developer shall submit to the Local Planning Authority a BREEAM design (interim) stage assessment report, to be written by a licensed BREEAM assessor, which shall set out the BREEAM score expected to be achieved by the building and the equivalent BREEAM standard to which the score relates. Where this does not meet the BREEAM minimum standard required, the developer shall provide, before the commencement of development of the building, details of what changes will be made to the building to achieve the minimum standard for the approval of the Local Planning Authority to be given in writing. The building must be completed entirely in accordance with any approval given. A BREEAM post-completion report of the building is to be carried out by a licensed BREEAM assessor within three months of substantial completion of the building. It shall set out the BREEAM score achieved by the building and the equivalent BREEAM standard to which such score relates.
- 7) Before the commencement of the development, details of the sustainable design and construction methods, including those to optimise energy and water efficiency, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented before the development's occupation.
- 8) The works of demolition hereby authorised shall not be carried out before a contract for the carrying out of the works of the redevelopment of the



site has been made and planning permission has been granted for the redevelopment for which the contract provides.

- 9) Samples of the materials it is intended to use externally in the construction of the development shall be submitted to the Local Planning Authority. No external finishing material shall be used until the Local Planning Authority has confirmed in writing that its use is acceptable. Thereafter the materials used in the construction of the development shall correspond with the approved samples in all respects.
- 10) Before the construction of the external walls of the development hereby permitted, details of the following, including confirmation of colour, shall be submitted to and approved in writing by the Local Planning Authority:
  - (1) External doors
  - (2) Windows, including depth of reveals
  - (3) Rainwater goods
  - (4) Fascia, soffit and barge boards

The development shall be constructed in accordance with the approved materials/details.

- 11) In accordance with details that shall previously have been submitted to and approved by the Local Planning Authority, the provision shall be made within the site for the disposal of surface water so that none drains onto any County Highway.
- 12) No external lighting shall be installed on the site or the building hereby permitted unless details of the lighting have previously been submitted and approved in writing by the Local Planning Authority (including location, type and specification). The details shall demonstrate how the lighting has been designed to minimise impacts on local amenity and wildlife (including isoline drawings of lighting levels and mitigation if necessary). The lighting shall be installed in accordance with the approved details.
- 13) No part of the development hereby approved shall be occupied until a management plan has been submitted to and agreed in writing by the local planning authority. The management plan will include:
  - i) occupation/letting criteria,
  - ii) staff support/control,
  - iii) student discipline,
  - iv) car ownership/parking,
  - v) security, and,
  - vi) an arrival/departure procedure.

Immediately upon occupation of the development, the developer shall implement the management plan. Following implementation of the management plan, there must be no variation of it without the prior written agreement of the local planning authority.

- 14) The development hereby approved shall not be brought into its intended use until secure cycle parking facilities for residents have been provided in accordance with the approved plans. After that, the said cycle parking facilities shall be retained for that purpose at all times.
- 15) A detailed scheme for landscaping, including planting trees or shrubs, the use of surface materials and boundary screen walls and fences shall be submitted to the Local Planning Authority. No building shall be occupied

until the Local Planning Authority has approved a scheme; such scheme shall specify materials, species, tree and plant sizes, numbers and planting densities, and any earthworks required, together with the timing of the scheme's implementation. The landscaping shall be implemented in accordance with the approved scheme and the agreed programme.

- 16) Before the occupation of the development hereby approved, details of the provision for nesting swifts shall be submitted to and agreed upon in writing by the Local Planning Authority. Upon written approval of the details, the scheme shall be fully implemented as part of the development and retained after that.
- 17) In the event of failure of any trees or shrubs planted in accordance with any scheme approved by the Local Planning Authority to become established and to prosper for five years from the date of the completion of the implementation of that scheme, such trees or shrubs shall be replaced with such live specimens of such species of such size and in such number as may be approved by the Local Planning Authority.
- 18) The dwellings comprised in the development shall not be occupied other than by students, except that the dwellings may be let to persons other than students for periods not exceeding 2 weeks in any one year period during the months of July and August each year.

**\*\*\*END OF CONDITIONS\*\*\***