

LPA STATEMENT OF CASE

Appeal ref: APP/Y1110/W/24/3339991

LPA ref: 23/0631/VOC

**130 Fore Street, St Davids, EXETER,
Devon, EX4 3JQ**

1. This Statement of Case will set out the Council's position in relation to refusal reasons of the application and matters raised in the appellant's Statement of Case.
2. The application was refused at Planning Committee for the following reason:

The proposal, by virtue of the increased height, massing and scale will create an unacceptable impact on local character, the Central Conservation Area and nearby listed buildings and in addition the increased height, scale and massing will impact on the amenity of neighbouring dwellings by creating a dominance in contrast to the previously open skyline.

The application is therefore considered to be contrary to Exeter Local Plan First Review 1995-2011 policies DG1(f), (g) and (h), C1, C2 and H5(a), Exeter Local Development Framework Core Strategy policies CP4 and CP17, the Residential Design Guide Supplementary Planning Document and Section 12 of the National Planning Policy Framework 2021.

Site Context

3. The application site is located at the junction of Fore Street and West Street and is to the south-west of the city centre, on a main route for pedestrians and vehicles. It sits on the corner between of two hill slopes, one sloping downward north-east to south-west (Fore Street) and the other downward south-west to south-east (West Street). It adjoins buildings on Fore Street to the north and buildings on West Street to the west.
4. The site is within the Central Conservation Area.
5. There are two distinct parts of the building, fronting Fore Street and West Street respectively.
6. The Fore Street element is a three-storey building that includes a retail unit at Fore Street ground floor level, with residential flats above. The retail unit and flats above will remain, with a reduction in the floor-space of the ground floor unit (as approved under 12/1426/FUL). There are also no alterations proposed to the elevations of this part of the building.
7. Fore Street has a mix of building types surrounding, a range of 3-storey and 4-storey terraces of varying architectural design.
8. The West Street element is primarily two storeys in height and consists of a lower-ground floor (in use as a coffee shop) that fronts onto West Street and a ground floor element in use as retail by the retail unit. There is a narrow tower style element to the west of the building which is three storeys in height.
9. West Street is a much narrower street than that of Fore Street, with the development facing the frontage of 3-storey dwellings opposite at a distance of only 6.85 metres. These dwellings are Grade II listed.

10. The site is relatively screened from long distance views when approaching from the north or south (along Fore Street), however upon closer views it becomes a prominent corner building situated on a busy crossroads.
11. There are slightly longer views of the site from Bartholomew Street to the west and West Street to the east and it is of note that there are further listed buildings to the east including 1-3 West Street (Grade II), The House That Moved (Grade II) and St Mary's Steps Church (Grade I).
12. There are not considered to be any long-distance views (e.g. from the hills surrounding the city) of the site of relevance due to the surrounding built form.

Previous Approval and Commencement

13. The extant development 12/1426/FUL was approved at Planning Committee in January 2013, with the decision issued 14 February 2013.
14. The approval was for 'Alterations and roof level redevelopment to provide 13 flats with associated access and communal facilities' and consisted of the conversion of lower-ground floors from retail to residential, insertion of a mezzanine level at ground floor (to split it into two levels) and an upward extension to add an additional two storeys of accommodation.
15. It was confirmed that works on-site had lawfully commenced within the 3-year decision timeframe with works to the bin-store area occurring. This was confirmed by the LPA with evidence through a Building Regulations application to the Council and is set out in the Officer Report.

Application and Decision of 23/0631/VOC

16. This appeal relates to the refusal of application 23/0631/VOC, which was for:

Variation of Condition 2 (approved drawings) of approval 12/1426/FUL (Alterations and roof level redevelopment to provide 13 flats with associated access and communal facilities) to alter the height and internal layouts.

17. As far as alterations to approval 12/1426/FUL the new proposal includes of a retention of the lower-ground floor commercial units, extension to the footprint of the second floor upward extension and an additional storey added above.
18. A full assessment of the variation to approval 12/1426/FUL is set out in the submitted Officer Report and it is not considered necessary to repeat many of the aspects covered unless they are of specific relevance to the refusal. This statement will therefore cover matters in relation to the refusal reason, alongside responses to matters raised within the appellant's grounds for appeal statement.
19. Paragraph 4.1 of the appellants grounds for appeal states that there was a 'categorical officer recommendation for approval'. The officer recommendation was based on a careful consideration of the additional impacts generated by the variation to the approved scheme

and the recommendation of approval was finely balanced. The officer report and recommendation should therefore be considered to offer a professional assessment of the proposal, but that it is not a clear-cut position of approval for the scheme.

20. The appellant's statement states that that a political reaction to the 139 objectors and ward member objection led to the refusal.
21. The majority of the objections included comments relating to the potential harm to, or loss of, an existing lower-ground floor coffee shop. However, this matter was covered within the report and discussed at the Planning Committee (see submitted Committee Minutes).
22. It was confirmed to Members that the extant permission had no retention of commercial use on the lower-ground floor and that this variation would see the lower-ground floor commercial use retained. It is also of relevance that the height, massing, scale and impacts on the Conservation Area, nearby listed buildings and the amenity of neighbouring dwellings were also recurring themes through the public comments. These matters were covered in the report and at the Committee Meeting before any decision was made and demonstrate that public and ward member opinion was also concerned regarding many aspects of the scheme and that they were addressed at the Committee.
23. Section 4.1 of the appellants' statement also states that there was a retrospective assessment of the entire scheme at Committee which formed the basis for the refusal.
24. Due to the time passed since the original approval it was relevant that both the extant and revised scheme were discussed, with the assessing Officer presenting plans of the extant and revised plans adjacent to each other to allow a clear and full understanding of what the differences were and what could be considered as part of the revised scheme. Further clarification of this is within the submitted Committee Minutes document, which confirm that the assessing Officer advised that 'the assessment was limited to the amendments proposed and their material impacts, rather than the entire scheme' alongside similar advice from the Service Lead City Development.
25. The refusal reasons were therefore correctly based on the impacts generated by the material increase in height, massing and scale of the revised scheme, with the Committee concluding that significant harm generated by these changes and not the extant permission.

26. Refusal Reason and Relevant Policies

27. As set out previously, application 23/0631/VOC was refused at Planning Committee for the following reason:

The proposal, by virtue of the increased height, massing and scale will create an unacceptable impact on local character, the Central Conservation Area and nearby listed buildings and in addition the increased height, scale and massing will impact on the amenity of neighbouring dwellings by creating a dominance in contrast to the previously open skyline.

The application is therefore considered to be contrary to Exeter Local Plan First Review 1995-2011 policies DG1(f), (g) and (h), C1, C2 and H5(a), Exeter Local

Development Framework Core Strategy policies CP4 and CP17, the Residential Design Guide Supplementary Planning Document and Section 12 of the National Planning Policy Framework 2021.

28. Local Plan saved policy DG1(f) states that development should 'be of a height which is appropriate to the surrounding townscape and ensure that the height of constituent part of buildings well to adjoining buildings and to human scale'.
29. Local Plan saved policy DG1(g) states that development should 'ensure that the volume and shape (the massing) of structures relates well to the character and appearance of the adjoining buildings and the surrounding townscape'.
30. Local Plan saved policy DG1(h) states that development should 'ensure that all designs promote local distinctiveness and contribute positively to the visual richness and amenity of the townscape'.
31. Local Plan saved policy C1 states that 'development within or affecting a Conservation Area (including changes of use, alterations and extensions) must play special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
32. Local Plan saved policy C2 states that 'development (including changes of use, alterations and extensions) which affects a listed building must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.
33. Local Plan saved policy H5(a) relates to the conversion of dwellings to flats and states that 'the scale and intensity of use will not harm the character of the building and locality and will not cause an unacceptable reduction in the amenity of neighbouring occupiers or result in on-street parking problems.
34. Core Strategy policy CP4 states that 'residential development should achieve the highest appropriate density compatible with the protection of heritage assets, local amenities, the character and quality of the local environment and the safety and convenience of the local and trunk road network.'
35. Core Strategy policy CP17 states that 'all proposals for development will exhibit a high standard of sustainable design that is resilient to climate change and complements or enhances Exeter's character, local identity and cultural diversity'.

Clarification of Layouts

36. The overall scheme (in whichever application) includes mezzanine levels added to the lower-ground floor and ground floor levels, and upward extensions.
37. Due to the new floor levels being added and different ground levels on the north-west and south-west elevations it is considered beneficial to use table 1 (below) from the Officer

Report to confirm the existing, extant and proposed floor levels, in line with the labelled plans submitted. It should be noted that the existing flats fronting Fore Street are not included with this as these are not being altered by the proposal.

38. The ground floor level is taken as that accessed directly from the Fore Street elevation:

Area	Existing	Approved 12/1426	Proposed
Lower-Lower Ground Floor	Single basement level relating to commercial use. Currently in use as coffee shop.	No.2 dwellings (connected to LGF) and no.1 dwelling	No.3 retail/office units (connected to LGF) and no.1 dwelling
Upper-Lower Ground Floor	Single basement level relating to commercial use. Currently in use as coffee shop	No.2 dwellings (connected to LGF) and no.1 dwelling	No.3 Retail/office units (connected to LGF) and no.1 dwelling
Ground Floor	Commercial and associated storage/offices	No.3 flats. Commercial unit facing Fore Street retained.	No.3 flats Commercial unit facing Fore Street retained. (no change to approval)
Lower-First Floor	Existing flat (being retained) No first floor level exists on West Street elevation.	No.3 flats	No.3 flats (No change to approval)
Upper-First Floor	Existing flat (being retained). No first floor level exists on West Street elevation.	No.2 flats and communal roof garden	No.2 Flats and communal roof garden (no change to approval)
Second Floor	No second floor level exists on West Street elevation.	No.1 flat and private roof garden	No.2 flats
Third Floor	No third floor level exists on West Street elevation.	No third floor level exists on West Street elevation.	No.1 flat and private roof garden

Table 1: Floor levels and uses

39. The uses of the various floors did not form part of the refusal reason, with the crux being the increased height, massing and scale and associated impacts. The same number of flats is proposed as the extant permission, with the addition of the retail space on the lower-ground floor levels.

40. In relation to the upper floor changes, the extant permission saw the second storey set back from the West Street elevation, with a small roof terrace area solely for occupants of that dwelling. This is now proposed to be extended by 2.3 metres to the south-east and 1.3 metres to the south-west (towards West Street), creating an additional 50.7sqm of floorspace at this level.

41. A new third storey is proposed which will be set back from the West Street boundary edge, in the same position as the original extant second storey. This new third storey will have a 2.7 metre height, with it set back 1.3 metres from the south and 2.3 metres from the western boundaries. The roof is angled to minimise overall height, but it should be noted that the highest point is on the West Street frontage..

42. The site is within Central Conservation Area and the Conservation Area Appraisal and Management Plan (CAAMP) notes on page 128 that the existing building is 'a pale imitation of the ornate Victorian building that it replaced'. The CAAMP continues to note that the attached garage buildings at 1-3 West Street are 'an eyesore and are ripe for development' it does not go so far as to say similar things regarding the existing 130 Fore Street building, leaving the final view of it somewhat unclear.
43. The Council's Urban Designer submitted comments raising no objection to the scheme, noting that the increase in height is acceptable within the city centre context, with the ridgeline of the retained building being maintained as the tallest part of the building.
44. The extant permission retained a subservient appearance to the upward extensions, adding only one additional storey to the height, with the other floors being gained through new mezzanine levels being installed internally. It is considered that this is not the case with the appealed scheme.
45. This new proposal will see the second floor balustrade railing sitting level with detailing on the retained building and the new third floor element sitting above the flat roof aspects of the Fore Street corner.
46. Whilst the Council's Urban Designer noted that the proposed ridgeline is lower than that of the retained building aspect fronting Fore Street it is of relevance that the existing hipped roof is set back and not overly visible, particularly from north-east, north-west or south-west views. The proposed roof of the third storey will appear to be visually higher than the flat roof parapet aspect to the detriment of the existing building.
47. Furthermore, the 3D visuals submitted (Appendix 1, page 1) show that the new third storey roof will protruding above the existing features, creating an unwelcome intrusion into the skyline in that area creating a clash between existing and new and preventing a subservient or set-down extension to the existing built form.
48. Page 5 of the 3D visuals (Appendix 1) demonstrates this dominance further, showing the additional storey sitting above the eaves of 128-129 Fore Street to the north. Fore Street slopes downwards north-east to south-west and generally buildings are set down from each other as the topography lowers. It is acknowledged that there are exceptions to this along the wider Fore Street area, however the area immediately adjoining the application site to the north and south have this stepped approach. Whilst views of this rear aspect are generally screened from public view, there are glimpses of it from the car park at the western end of West Street and between dwellings when using Stepcote Hill.
49. In relation to West Street, it is a narrow one-way street with a width of just 6.85 metres between the existing building and properties opposite.
50. There will clearly be an existing level of accepted dominance and from the extant permission, however the proposed changes will add a further 2.7 metres of elevation where the second storey footprint is being extended and additional height from balustrades and built form of the new third storey addition.

51. This increase in height and mass, combined with the removal of the clear stepping down from the Fore Street to West Street elements and the sloping topography, will create an unacceptable overbearing presence on the character of the street. This is out of character with the human scale, which would see the pedestrian route dominated by this new building and significantly harming its important position within the Conservation Area as a historic thoroughfare connecting to Fore Street and through to the city centre.
52. This increase will also create a dominance over the listed buildings opposite. Nos.2-24 West Street are Grade II Listed buildings and whilst the extant permission permitted a first and second storey addition, the second storey was set back limiting the level of harm. The expansion of the second-floor footprint and additional third storey will significantly increase this dominance, looming over these heritage assets and detracting from the historic status of this older city street.
53. With regard to Grade II 'The House That Moved' and the Grade I St Mary Steps Church to the east it is considered that the harm caused, when assessed on its own, would be limited.
54. The buildings themselves block the longer views of the site, and create a prominent framing of the development when viewed from the West Street car park. The positioning and height of these listed buildings prevent the additional height of this appealed scheme from extending above their roofline/church tower and there is a suitable distance from them to prevent the increased mass generating substantial harm to them.
55. However, these should not be viewed as isolated structures and form part of the wider heritage setting of this part of the city, which is noticeable by the number of surrounding listed buildings and Conservation Area designation. When viewed as a whole, the level of impact to these features is unacceptable and generates significant harm.
56. The assessment within this section sets out that the height, massing and scale of the building is not in keeping with the surrounding landscape, adjoining buildings, spaces or human scale and is therefore contrary to Local Plan policies DG1(f) and (g) and H5(a) and Core Strategy policy CP4 and CP17. The amenity of the townscape will be harmed through this upward intrusion and increased dominance at second and third floor level contrary to Local Plan policy DG1(h)
57. In addition, significant historic impacts will be created with the increased height looming over West Street and the listed buildings opposite, creating an oppressive and unacceptable level of harm to these historic features and the wider Conservation Area contrary to Local Plan policies C1 and C2.

Neighbour Amenity

58. During the application assessment a study of daylight and privacy impacts to dwellings on West Street was submitted and it was concluded that there was limited harm generated by the appealed scheme. Whilst this does not form part of the refusal reasons it should be considered that there are other amenity impacts created, in this instance through the dominance of the new development.

59. The primary example of impact is on no.6 West Street, a narrow three-storey dwelling. The extant permission creates a level of dominance over the ground floor and first floor windows with the second floor continuing to have a visible sky above the extant second floor design.
60. The increased second floor footprint and additional third storey element will significantly alter this, removing this element of visible sky entirely from the north-east facing elevation and creating an unacceptable overbearing dominance on habitable rooms.
61. To the rear, the new third storey will create a hard, blank elevation on the boundary with top floor flats at 128-129 Fore Street. This can be seen in the submitted 3D visuals (Appendix 1, page 5) which demonstrate that the increased height immediately on the boundary will be creating a dominant feature close to windows and will significantly impact on occupant amenity.
62. It is therefore concluded that the proposal will create an unacceptable impact to the amenity of neighbouring properties, failing to accord with Local Plan policy H5(a) and Core Strategy policy CP4.

Current Housing Position

63. The Council is currently at Regulation 18 stage of the Exeter Plan and as such is now required to demonstrate a 4-year housing supply. The Council's most recent 5-year land supply statement (Appendix 2) demonstrates that this is being met and therefore the tilted balance in favour of development is not in effect.
64. In any instance, the number of dwellings proposed through this scheme is the same as that of the extant permission and therefore there is little additional benefit to the housing supply. It is however acknowledged that there are economic benefits in retaining the lower-ground floor retail units, however the extant permission would see these removed.

LPA Conclusions

65. It is clearly acknowledged that there is an extant scheme that was found to be acceptable and the Council does not dispute this or use extant aspects as a basis for the refusal of this scheme.
66. However, this appeal proposal will create an unacceptable increase in height, scale and massing through the increased footprint of the second storey and the addition of the new third storey. This statement has set out the significant impacts generated by these changes which, whilst in isolation may have created minimal harm, but when combined are considered to generate significant impacts to the character of the area, the Central Conservation Area and surrounding listed buildings as well as unacceptable harm to the amenity of neighbouring dwellings.
67. The Inspector is therefore, respectfully, requested to dismiss this appeal.