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## Appeal Decisions

Site visit made on 25 May 2021

**by Guy Davies BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 10 June 2021**

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### **Appeal A Ref: APP/M2270/W/21/3266377**

#### **22 Windmill Street, Royal Tunbridge Wells TN2 4UU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Nick Connor against the decision of Tunbridge Wells Borough Council.
  - The application Ref 20/01287/FULL, dated 9 May 2020, was refused by notice dated 14 July 2020.
  - The development proposed is demolition of the existing house and the erection of a terrace of four dwellings.
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### **Appeal B Ref: APP/M2270/W/21/3266379**

#### **22 Windmill Street, Royal Tunbridge Wells TN2 4UU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Nick Connor against the decision of Tunbridge Wells Borough Council.
  - The application Ref 20/01288/FULL, dated 9 May 2020, was refused by notice dated 14 July 2020.
  - The development proposed is demolition of the existing house and the erection of a terrace of three dwellings.
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## **Decisions**

1. Appeal A is allowed and planning permission is granted for demolition of the existing house and the erection of a terrace of four dwellings at 22 Windmill Street, Royal Tunbridge Wells TN2 4UU in accordance with the terms of the application Ref 20/01287/FULL, dated 9 May 2020, and the conditions set out in the attached schedule.
2. Appeal B is allowed and planning permission is granted for demolition of the existing house and the erection of a terrace of three dwellings at 22 Windmill Street, Royal Tunbridge Wells TN2 4UU in accordance with the terms of the application Ref 20/01288/FULL, dated 9 May 2020, and the conditions set out in the attached schedule.

## **Preliminary Matters**

3. I have considered each proposal on its own individual merits. However, to avoid duplication I have dealt with the two schemes together except where otherwise indicated.

4. Both appeals represent revised schemes to previous proposals on the site for demolition of the existing house and the erection of a terrace of 4 dwellings<sup>1</sup>, or alternatively 2 pairs of semi-detached dwellings<sup>2</sup>. These previous proposals were refused planning permission and dismissed on appeal. I have had regard to the views of the Inspector in these previous cases.

### **Main Issue**

5. The main issue for both appeals is the effect of the development on the character and appearance of the area.

### **Reasons**

6. Windmill Street together with St Peter's Street forms a residential neighbourhood that is characterised by mainly terraced and semi-detached Victorian houses, with some community buildings including a church. The buildings are positioned close to the streets with short front gardens giving a tight knit, building dominated layout. The terraced houses display a degree of regularity in terms of height and design while the semi-detached houses are more mixed in appearance providing a greater variation in overall built form.
7. The appeal site is somewhat unusual in this context, it being considerably wider than other plots in the area with the existing house occupying only part of the frontage. It is flanked to one side by 2 pairs of semi-detached houses with hipped main roofs and gabled side projections, and beyond those by a terrace of 3 houses with gabled roofs. All these houses are of 3 storeys including a semi-basement floor. To the other side is a pair and then a staggered terrace of more modern, 2 storey, houses.
8. Both proposed schemes would respect the building line set by the adjacent houses and retain similar gaps between buildings. The width of the proposed houses would be similar to that of other terraced houses in the street, the terrace of 3 being somewhat more generous when compared to the proposed terrace of 4 or other existing terraced properties in Windmill Street. The design of the houses would also reflect the character of neighbouring Victorian buildings by having windows of a similar design to those at 32-36 Windmill Street, vertically aligned with offset doorways accessed by steps.
9. Importantly, the scale of the development has been reduced when compared to the schemes previously dismissed on appeal, with the elements identified as harmful by the previous Inspector now no longer forming part of either scheme.
10. The roofs of both proposals would be of a simple gabled form without any dormers or front rooflights. The pitch has been reduced such that the height of the ridges would be similar to the height of the neighbouring houses (slightly higher than the modern pair of semi-detached houses but the same or lower than the flanking semi-detached and terraced Victorian houses). These changes would result in the current appeal schemes being of 3 rather than 4 storeys as previously proposed.
11. Both schemes would incorporate a semi-basement floor similar to those found in the houses at 24-36 Windmill Street. This would involve less excavation than

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<sup>1</sup> 17/04243/FULL (APP/M2270/W/18/3216500)

<sup>2</sup> 18/03431/FULL (APP/M2270/W/19/3223581)

entailed in the previous schemes, and result in small but useable rear garden areas, not dissimilar in size to the modest rear gardens of the other houses along this part of Windmill Street.

12. The plot sizes and building footprints for the proposed houses would be similar to those in the area. As a result of the revisions made to the current proposals when compared to the previous schemes dismissed on appeal, they would now also reflect the height, massing and design of the Victorian dwellings in Windmill Street, in particular that of the terrace at 32-36 Windmill Street.
13. The Council has argued that the spacious nature of the site provides a welcome break in built form which contributes positively to the character of the area, as does the front boundary wall. However, from my assessment of the area the break in the building line is uncharacteristic of Windmill Street as is the presence of a tall front boundary wall. The predominant character of the area is one of buildings defining the street frontage, rather than the gaps between them or their curtilage boundaries. In that regard, the proposed developments would respect and complement the general form and layout of buildings in the area rather than detract from it.
14. I conclude that, having regard to the similarities in plot size, footprint, height, massing and design, both proposed schemes would respect the character and appearance of the area, and would as a result comply with Policy EN1 of the Tunbridge Wells Borough Local Plan 2006 and Policies 4, 5 and 9 of the Tunbridge Wells Borough Core Strategy 2010, which require new development to respect the context of the site and conserve and enhance the public realm.

### **Other Matters**

15. Immediately to the rear and at a lower level are other residential properties accessed from Camden Park, the nearest of which is Apple Tree Cottage. To avoid overlooking and loss of privacy to these properties it would be necessary to ensure that the upper floor, rear facing windows were obscured glazed and fixed shut below eye level, as is proposed in both appeal schemes. Side facing windows are also shown to be obscured glazed where there is the possibility of overlooking to neighbouring properties at either side. Such restrictions could be secured by condition. Based on the sectional drawings submitted with each scheme, overlooking from the basement and first floor rear windows would be sufficiently restricted by the rear boundary wall as to avoid a harmful loss of privacy.
16. The restrictions on the upper rear windows would in themselves restrict the outlook for future residents. Such restrictions are not normally desirable to habitable rooms, but because the restrictions apply to only some and not all of the bedrooms in each proposed dwelling, the Council does not consider a reason for refusal could be sustained on this basis, nor was it a determining issue in the previous appeals. Reference is made to a possible conflict with the building regulations because the windows may need to be openable as a means of escape in an emergency, but no further explanation has been provided or evidence that such an alleged conflict could not be overcome. This would be a matter for determination under a separate legislative process, and I do not consider it to be decisive in terms of the planning merits of the appeal schemes.

17. Both proposals would lead to a significant increase in building bulk, particularly in views from Apple Tree Cottage which sits at a lower level. However, this relationship would be little different to that between the existing buildings in Windmill Street and those in Camden Park, and as the development would be to the north it would not cause overshadowing of the dwellings to the south. It would result in building bulk being sited nearer to the flanking dwellings, but space would be left between them comparable to other building separations in Windmill Street. I do not therefore consider either appeal scheme to be overly dominant in relation to neighbouring properties.
18. The site is within walking distance of local services and facilities, and accessible by public transport. The Council's parking standards do not require any off-street parking provision in sustainable locations such as this. A net increase of 2 or 3 dwellings is likely to result in a modest increase in demand for on-street parking. On-street parking in Windmill Street and surrounding streets is already restricted at certain times, with residents' parking available through a permit holder scheme. There are therefore sufficient controls in place to avoid on-street parking causing harm to highway safety or causing congestion.
19. The existing house is typical of the Victorian era and consistent with the character and appearance of the area. However, it is not listed as being of particular historical or architectural importance, and no objection is raised to its demolition. Demolition of the existing house and its replacement with either appeal scheme would not adversely affect the setting of the conservation area that lies to the south and includes land within Camden Place.

## **Conditions**

20. I have considered the conditions suggested by the Council in the light of paragraph 55 of the National Planning Policy Framework. I consider the same conditions are applicable to each of the appeal schemes, other than for the condition listing the approved plans. Separate schedules are set out for each appeal for ease of reference.
21. In addition to the standard time limit condition, a condition listing the approved plans is necessary in the interests of certainty. A condition requiring approval of external materials is necessary in the interests of the appearance of the development and the wider character of the area. I have modified the wording of this condition to avoid the need for the details to be approved prior to commencement.
22. I have imposed a condition restricting domestic permitted development rights in both appeal proposals. The appellant objects to the imposition of this condition on the grounds that the site is unconstrained and falls within a predominantly residential area. However, as demonstrated by the previous schemes which were refused and dismissed on appeal, further development in the form of domestic extensions or alterations, for example in the form of dormers or extensions over the limited garden spaces, could cause harm to the character and appearance of the area. I consider that in this instance, there is clear justification for the Council to retain control over such extensions or alterations.
23. I have also added a condition requiring the installation and retention of obscured glazed and fixed shut windows where indicated on the approved plans. Although not included in the list of conditions suggested by the Council it

is clear from its appeal statement that it considers such restrictions to be necessary, and the appellant has indicated by notation on the approved plans that such restrictions do form part of the proposed schemes. I consider such a condition is necessary in the interests of preventing overlooking and the loss of privacy to the occupants of neighbouring dwellings.

### **Conclusion**

24. I consider that both proposals comply with the development plan when taken as a whole, and that there are no material considerations that indicate otherwise. Consequently, I conclude that both appeals should be allowed.

*Guy Davies*

INSPECTOR

### **Appeal A: 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:  
  
22WS-04-01A - Existing and Proposed Block Plan  
22WS-04-02 - Existing and Proposed Street Elevation Viewed from Windmill Street  
22WS-04-03 - Existing and Proposed Street Elevation Viewed from Camden Park  
22WS-04-04 - Existing and Proposed Roof Plans  
22WS-04-05A - Existing Plans and Elevations  
22WS-04-06 - Proposed Plans  
22WS-04-07A - Proposed Elevations  
22WS-04-08 - Proposed Elevations  
22WS-04-09 - Existing and Proposed Sections Through Windmill Street  
22WS-04-10 - Proposed Ground Floor Plan Bin Storage  
22WS-04-11 - Rear Window Further Details  
22WS-04-12A - Site Location Plan
- 3) No development above foundation slab level shall take place until details of the proposed finishes and materials to be used externally have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out using the approved external materials.
- 4) Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 2015 as amended, no development shall be carried out within Classes A, B, C, D and E of Part 1 or Class A or Part 2 of Schedule 2 of that Order (or any order revoking and re-enacting that Order) without the permission of the Local Planning Authority.
- 5) No dwelling hereby permitted shall be occupied until the windows in the upper floors of the rear elevations and the flank elevations as indicated on the approved plans, have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

**\*\*\* End of conditions for Appeal A \*\*\***

## **Appeal B: 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:  
  
22WS-03-01A - Existing and Proposed Block Plan  
22WS-03-02 - Existing and Proposed Street Elevation Viewed from Windmill Street  
22WS-03-03 - Existing and Proposed Street Elevation Viewed from Camden Park  
22WS-03-04 - Existing and Proposed Roof Plans  
22WS-03-05A - Existing Plans and Elevations  
22WS-03-06 - Proposed Plans  
22WS-03-07A - Proposed Elevations  
22WS-03-08 - Proposed Elevations  
22WS-03-09 - Existing and Proposed Sections Through Windmill Street  
22WS-03-10 - Proposed Ground Floor Plan Bin Storage  
22WS-03-11 - Rear Window Further Details  
22WS-03-12A - Site Location Plan
- 3) No development above foundation slab level shall take place until details of the proposed finishes and materials to be used externally have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out using the approved external materials.
- 4) Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 2015 as amended, no development shall be carried out within Classes A, B, C, D and E of Part 1 or Class A or Part 2 of Schedule 2 of that Order (or any order revoking and re-enacting that Order) without the permission of the Local Planning Authority.
- 5) No dwelling hereby permitted shall be occupied until the windows in the upper floors of the rear elevations and the flank elevations as indicated on the approved plans, have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

**\*\*\* End of conditions for Appeal B \*\*\***