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## Appeal Decision

Site visit made on 17 May 2022

**by G Roberts BA (Hons) MRTPI**

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

**Decision date: 17<sup>th</sup> June 2022**

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**Appeal Ref: APP/P2114/W/21/3287362**

**Land adjacent to 1 Prince Street, Ryde, PO33 2SE**

- 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 and Mrs J Kohn against the decision of Isle of Wight Council.
  - The application Ref 20/01930/FUL, dated 5 November 2020, was refused by notice dated 9 June 2021.
  - The development proposed is demolition of double garages and construction of a pair of semi-detached houses.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of double garages and construction of a pair of semi-detached houses on land adjacent to 1 Prince Street, Ryde, PO33 2SE, in accordance with the terms of the application, Ref. 20/01930/FUL, dated 5 November 2020, and subject to the conditions listed in the Annex to this decision.

### Main Issue

2. The main issue is whether the proposed development would result in the overdevelopment of the site, and, if so, whether it would affect the character and appearance of the area and the living conditions of neighbouring occupiers.

### Reasons

3. The appeal site is located on the eastern side of Prince Street close to its junction with St John's Road. Prince Street is predominantly residential and comprises largely two storey semi-detached properties, with small front gardens enclosed by boundary walls, although a few frontages are used for off-street parking. The properties are largely traditional in terms of their style, although there are some variations in form, age and detail, as well as a pallet of materials that includes stone, brick, painted brick and render, with predominantly slate roofs.
4. A similar mixture of traditional and newer properties and pallet of materials is found on St John's Road, which is again predominantly residential interspersed with commercial uses, such as the convenience store that occupies the corner site to the north west of the appeal site. Overall, the surrounding area is typical of that found within central urban locations, with existing properties tightly knit together and a high level of on-street parking.
5. The appeal site itself comprises a large single storey double garage and a builder's yard, with its frontage to Prince Street enclosed by a brick wall and

- gates. At the time of my site visit, the yard was being used to store builder's materials. The appeal proposal involves the demolition of the double garage and construction of a pair of two storey semi detached dwellings, with parking to the side of each new plot and gardens at the rear.
6. The Council's Delegated Report states that the proposed design of the dwellings is relatively low key and traditional in appearance, constructed from facing brickwork, with a brick band and slate roofs, which they conclude would retain the traditional feel to this part of Ryde. I concur with those findings. However, the Council do have concerns with the scale and footprint of the development relative to the size of the appeal site, which they contend is cramped resulting in an overdevelopment of the site.
  7. Although the limited depth of the appeal site results in the proposed units having a wider frontage than existing pairs of semis in Prince Street, I am not convinced that this factor alone leads to any material harm to the character and appearance of the area or is an indication that the development would be incongruous. The appeal proposal would sit in a gap and provide an appropriate transition from the narrower pair of semis to the south, 1 and 2 Prince Street (No's 1 & 2) to the longer two and single storey side elevation of No. 35 St John's Road (No.35 SJR) to the north.
  8. In addition, to the west of the appeal site are 47 and 48 Prince Street and 33 St John's Road, which effectively form a solid two storey elevation sited on the back edge of the pavement. The latter does not detract from the streetscene but instead adds some interest and emphasis as you move towards the junction and away from the uniform pairs of semis to the south. Within that context, the appeal building, which would be set back from the back edge of the pavement, would not appear out of keeping with the character of the area or visually prominent within the streetscene.
  9. I acknowledge that the appeal site is of an irregular shape and that its plot site is smaller than that of surrounding properties, but there are also examples of plots in the area that are of a similar size to the appeal site. In view of this and mindful of the densely built up nature of the area, and the location that the appeal site occupies close to the junction, I am not convinced that plot size should be a deciding factor. I also concur with the Appellant that plot sizes and the depth of individual sites is not a feature that is readily apparent or visible from public vantage points on Prince Street, largely due to the small gaps that exist between the pairs of semis and the screening provided by side extensions, porches, fencing and gates to those properties.
  10. Moreover, the proposed layout shows the ability to accommodate off-street parking, pedestrian access and separate garden areas for both plots. The Council have not raised any objections to the level of parking or amenity space, and in the absence of any standards for the latter the level of provision shown would be acceptable for what would be small two bedroom dwellings. The proposed layout also shows a reasonable amount of space retained around the new building. Overall, the proposed building would, in my judgement, sit comfortably on the appeal site and the footprint, scale and layout of the appeal proposal would not appear cramped and would not result in an overdevelopment of the site.
  11. In support of the above findings it is important to recognise that the appeal site comprises brownfield land, which is currently underused and visually

contributes little to the character and appearance of the area. Paragraph 119 of the National Planning Policy Framework (July 2021) (Framework) states that planning decisions should promote the effective use of land in meeting the need for housing, with paragraph 120 c) requiring decisions to give substantial weight to the value of using brownfield land for new homes. Paragraph 125 of the Framework also states that in locations where there is a need for new homes and an anticipated shortage of land to meet those needs, decisions should ensure that developments make optimal use of the potential of each site, with minimum density standards for locations that are well served by public transport. Combined, the above policies provide strong support for maximising the development potential of the appeal site given that it is located within a highly accessible and sustainable location.

12. The Council's Delegated Report states that due to the orientation of the proposed building and the gaps that would be retained relative to No.1 and No.35 SJR, as well as the arrangement of the internal accommodation and windows to those properties, the appeal proposal would not be intrusive or overbearing or lead to any harmful issues of overlooking. I concur with those findings. The Council do contend, however, that as the eastern boundary of the appeal site abuts the side boundary to the rear garden of 37 St John's Road (No.37 SJR) and as the former is at a slightly higher level, the proposed building would appear intrusive from the garden of No.37 SJR.
13. Having observed the above relationship on site and whilst I accept there would be some visual impact and overshadowing of the rear garden to No.37 SJR, I am satisfied that the level of impact would not be so significant as to justify the refusal of planning permission. A reasonable gap would be retained between the rear of the proposed building and the common boundary with No.37 SJR. The existing wall on the common boundary would be retained and with the proposed building sited to the west of No.37 SJR, the rear garden of the latter would still benefit from a good level of sunlight and daylight. Moreover, within densely built up areas such building relationships are not uncommon. In terms of overlooking, the proposed rear elevation would incorporate high level windows on the first floor of both plots, which would be sufficient to mitigate direct views into the rear garden of No.37 SJR.
14. Accordingly, I find that the proposed development would not represent an overdevelopment of the appeal site, neither would it represent an unneighbourly addition and that, on balance, the proposal preserves the character and appearance of the area. It would, therefore, be compliant with the aims and objectives of policy DM2 of the Isle of Wight Core Strategy Development Management Development Plan Document (March 2012) and the corresponding policies in the Framework.

### **Other Matters**

15. The Appellant has submitted completed Unilateral Undertaking's (Deeds) dated 14 December 2020 and 13 May 2022. The first Deed sought to secure contributions towards affordable housing and habitat mitigation. The subsequent Deed was required to deal with changes to the level of habitat contributions. The Deeds obligate the owner to pay the habitat contribution prior to the commencement of development and the affordable contribution prior to the occupation of the respective dwellings.

16. Having reviewed both Deeds, I am satisfied that these obligations are reasonable and effective, and would meet the requirements of the Affordable Housing Contribution Supplementary Planning Document (March 2017), the Solent Recreation Mitigation Strategy (December 2017) and policies DM4 and SP5 of the IWCS. The obligations within these Deeds are necessary to make the appeal proposal acceptable in planning terms; they are directly related to the proposed development; and fairly and reasonably related in scale and kind to the development. As such, all three tests set out in paragraph 57 of the Framework are met, and all the three statutory tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 are similarly met.

### **Planning balance**

17. The Appellant's Design & Access Statement and their Appeal Statement both submit that the Council cannot identify a 5-year supply of housing land. I note from the Council's Delegated Report that there is no mention of this issue, but, even so, the Council have not challenged the Appellant's submissions in this respect. As there is no evidence to the contrary and based on the submissions before me, I have proceeded on the understanding that the Council cannot identify a 5-year supply of housing land.
18. Paragraph 11 d) of the Framework states that where the relevant policies of the development plan are out of date (which footnote 8 states includes, for applications involving the provision of housing, where the local planning authority cannot identify a 5-year supply of housing land), planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole or where policies in the Framework that protect areas/assets of importance provide a clear reason for refusing permission. The latter does not apply here and as I have already found, the appeal proposal would not result in any significant adverse impacts.
19. Turning to the benefits, the proposed two dwellings would secure a small contribution to future housing provision; there would be economic investment both from their construction and subsequent occupation; the site is in a highly sustainable and accessible location; and the proposal would make effective use of brownfield and underused land where a higher density of development would be appropriate. Whilst individually, these benefits are small, combined they carry, in my view, significant weight in favour of the development.
20. In the context of paragraph 11 d) of the Framework the appeal proposal would not result in any significant adverse impacts and the presumption in favour of sustainable development applies, which combined with the benefits of the scheme, points towards the grant of planning permission.

### **Conditions**

21. The Council has suggested several conditions which I have considered against the advice in the Framework and the Planning Practice Guidance (PPG) chapter on the use of planning conditions.
22. Conditions relating to compliance with the approved plans, for details of materials and parking spaces (including their drainage) to be submitted and approved and provision/protection of the required visibility splays, are reasonable and necessary in the interests of securing a high quality

development, to reflect the details included with the application and in the interests of highway safety. Similarly, a condition requiring the submission and approval of a surface water drainage and foul water disposal scheme is also reasonable and necessary to ensure a satisfactory drainage system and that the site is suitably drained.

23. Whilst the PPG advises that permitted development rights should only be taken away in exceptional circumstances, I am satisfied that those circumstances exist here and that conditions preventing the construction of new gates, to prevent extensions, alterations and associated improvements to the permitted dwellings and to prevent the construction of new windows and dormers, are necessary and reasonable in order to protect the living conditions of neighbouring occupiers and in the interests of highway safety. I am also satisfied that a condition requiring the new first floor window in the northern elevation of plot 1 serving bedroom 2 to be obscure glazed and fixed shut to the height specified, is reasonable and necessary to protect the living conditions of the neighbouring occupiers.

### **Conclusion**

24. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be allowed.

*G Roberts*

INSPECTOR

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### **Annex - Conditions**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plans: Drawing No. A3-PR 02A (Site Plan); A3- PS-01B (Elevations); and A3-PS-01A (Floor Plans).
- 3) Construction of the dwellings hereby approved shall not proceed above foundation level until details of the materials and finishes, including mortar colour, to be used in the construction of the external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no gates shall be erected other than gates that are set back a minimum distance of 5.0 metres from the edge of the carriageway of the adjoining highway and open into the site only.
- 5) No dwelling hereby permitted shall be occupied until space has been laid out within the site in accordance with drawing No. A3-PR-02A for two vehicles to be parked and drained and surfaced in accordance with details that have

been submitted to and approved by the Local Planning Authority in writing. The spaces shall not thereafter be used for any purpose other than that approved in accordance with this condition.

- 6) No part of any boundary wall or fence erected on the site roadside frontage, nor any hedge planted to mark the roadside boundary or alongside such boundary, wall or fence, shall at any time be permitted to be more than 1 metre above the level of the adjacent carriageway and resultant visibility splays shall be kept free of obstruction.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development within Classes A to E (inclusive) of Part 1 of Schedule 2 to that Order shall be carried out other than that expressly authorised by this permission.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order, with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed.
- 9) Prior to the development hereby approved being brought into use, the first floor window on the north elevation, as shown on the submitted plans serving plot 1, bedroom 2, shall be fitted with obscure glass with a glass panel which has been rendered obscure as part of its manufacturing process to Pilkington glass classification 5 (or equivalent glass supplied by an alternative manufacturer), of which the cill of the only opening section shall be 1.7m above finished floor level. The window shall be retained to this specification thereafter.
- 10) No development shall take place until a scheme for the drainage and disposal of surface and foul water from the development hereby permitted, has been submitted to and approved in writing by the Local Planning Authority. Foul drainage shall be connected to the public sewer and shall be served by the Southern Water Wastewater Treatment Works (WWTW) at Sandown. The development shall be carried out in accordance with the approved scheme, which shall be completed prior to the occupation of the dwelling(s) hereby permitted and be retained thereafter.

**End of Annex.**