



Appeal Decision

Site visit made on 8 August 2023

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal Ref: APP/M2270/W/22/3312834

**St Andrews Medical Centre, St Andrews Court, Pinewood Gardens,
Southborough, Tunbridge Wells, Kent TN4 0LZ**

- 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 Philip Gowing of Gowing Developments Ltd against the decision of Tunbridge Wells Borough Council.
 - The application Ref 22/01537/FULL, dated 15 June 2022, was refused by notice dated 18 November 2022.
 - The development proposed is the erection of three semi-detached townhouses to create six new family dwellings at the site of St Andrews Medical Centre.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing building and the erection of three semi-detached townhouses to create six new dwellings at St Andrews Medical Centre, St Andrews Court, Pinewood Gardens, Southborough, Tunbridge Wells, Kent TN4 0LZ in accordance with the terms of the application, Ref 22/01537/FULL, dated 15 June 2022, subject to the conditions in the attached schedule.

Preliminary Matter

2. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is clear from the plans and accompanying details that the proposed development also includes the demolition of the existing building. The Council dealt with the proposal on this basis and so shall I. The decision in paragraph 1 above reflects this approach.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - whether the development would provide acceptable living conditions for future occupants, with particular regard to outlook; and
 - the effect of the development on the living conditions of the occupiers of dwellings on St Andrews Park Road, with particular regard to privacy.

Reasons

Character and appearance

4. The appeal site comprises a disused single storey former medical centre and associated car park. It is accessed via a shared footpath/roadway from St Andrews Court. There are two-storey maisonettes to the west, a three-storey block of flats to the north and the grounds of a scout hut to the east. To the rear lie detached dwellings fronting St Andrews Park Road, with some mature trees along parts of the boundary.
5. The proposal would replace the existing building with three pairs of three storey semi-detached townhouses to create six dwellings. The parties disagree on the height of the proposed buildings but, despite having an additional storey, their flat roof design would result in only a small increase in overall height compared to the ridgeline of the adjacent block of maisonettes. Although the buildings would have a greater mass than the maisonettes, their set back from the access road together with their considerably lower height and smaller size than the block of flats opposite mean that they would not appear out of scale.
6. Plot 1 would be located approximately 1m from the western boundary. The gaps between this plot and the existing maisonettes, and between the three pairs of dwellings on the appeal site, would be similar to the gaps between the existing blocks of maisonettes to the west. The approximate 7.5m separation distance between the proposed buildings and the rear boundaries means that obscure glazing and opening restrictors on the rear upper floor bedroom windows would be necessary. However, given that the proposed layout reflects that of the adjacent maisonettes and considering the site's rectangular shape, the separation distance and the design solution to prevent overlooking would be reasonable.
7. The development would provide two parking spaces per dwelling, each measuring 4.8m by 2.4m. Whilst there would be a shortfall of one visitor space against the Council's emerging standards, the proposal would meet the number of spaces required by current standards. The sizes of the spaces would be marginally smaller than the 5m by 2.5m preferred size set out in the Kent Vehicle Parking Standards 2006 but would accord with the recommended dimensions for off-street parking bays in the government guidance in the Manual for Streets. As such, I have no evidence that the proposal would cause unacceptable overhanging of vehicles onto the pedestrian/vehicle access to the front of the site.
8. Given the scale, layout, and site coverage of the proposed development relative to existing buildings in the vicinity and the provision of an adequate number and size of parking spaces, the proposal would not result in overdevelopment of the site.
9. The contemporary design of the development would be different in form and appearance to existing properties in the vicinity, with flat roofs, projecting first floors at the front and incorporating modern materials. The innovative design would not be inappropriate in this residential area where the scale and mass of the proposed dwellings would be acceptable. Although the front parking bays would be visible, these are common in modern developments and would be interspersed with some planting.
10. Overall, I conclude that the development would not harm the character and appearance of the area. It would comply with Policy EN1 of the Tunbridge Wells Borough Local Plan 2006 (TWBLP) and Core Policy 4 of the Council's Core

Strategy 2010 (CS). Together these seek to conserve the Borough's urban landscapes and require the siting, layout, density and spacing of proposals to respect site characteristics including its relationship with the immediate surroundings, amongst other things. It would also accord with the National Planning Policy Framework (the Framework) which requires development to be sympathetic to local character.

Living conditions – future occupiers

11. The four-bedroom dwellings would include obscure glazing to the first-floor windows on bedrooms 3 and 4, with the use of restrictors to allow them to be opened by a maximum amount of 500mm. These are a design solution to prevent overlooking from these rooms into the gardens of the dwellings to the rear.
12. The obscure glazed windows would restrict the outlook for occupiers of those bedrooms. However, these would be secondary bedrooms, with the windows serving bedrooms 1 and 2 and the ground floor living area being non-obscured. As most of the habitable rooms would not be obscure glazed and the obscure glazed bedroom windows would be openable to an extent, the proposal would not result in a harmful sense of enclosure to the future occupiers of the dwellings.
13. Therefore, I conclude that the development would provide acceptable living conditions for future occupants, with particular regard to outlook. It would comply with Policy EN1 of the TWBLP where it requires proposals to provide adequate residential amenities for future occupiers. It would also accord with the Framework which requires decisions to provide a high standard of amenity for future users.

Living conditions – existing occupiers

14. The three-storey development would have upper floor rear windows serving bedrooms on the first floor and dressing rooms and en-suite bathrooms on the second floor. The height of the buildings and the large number of upper floor rear windows would create some perception of loss of privacy from the rear gardens and rooms of neighbouring properties at St Andrews Park Road. However, the proposed upper floor rear windows would be obscure glazed with restricted openings so the occupiers of the proposed dwellings would not be able to see into the existing properties. The imposition of enforceable conditions would ensure that they are installed and permanently retained. Some screening would also be provided by trees along the boundary. As a result, the proposal would not cause an unacceptable perception of overlooking of the neighbouring outdoor amenity spaces and rear rooms.
15. Consequently, I conclude that the development would not harm the living conditions of occupiers of dwellings on St Andrews Park Road, with particular regard to privacy. It would comply with Policy EN1 of the TWBLP where it requires proposals to not cause significant harm to the amenities of neighbouring occupiers by ensuring that the development does not result in overlooking or an unacceptable loss of privacy. Additionally, it would be in accordance with the Framework which requires decisions to provide a high standard of amenity for existing users.

Other Matters

16. The current access is a shared footpath/roadway linking St Andrews Court to the Ridgeway playing fields to the east with a gate and bollards restricting vehicular access. Third parties are concerned that this would be used to access the development, causing a danger to pedestrians. There would be significantly fewer vehicular trips generated by the proposal compared to uncontrolled access to the former medical centre, and access for emergency and refuse vehicles would not be worse than before. Although the access would be shared, a condition requiring details of signage, speed humps and bollards would help to ensure pedestrian safety.
17. Local residents have also expressed a wide range of other concerns including but not limited to the following: loss of outlook, sunlight and daylight; sizes of the proposed dwellings; and noise. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reasons for refusal which I have dealt with in the assessment above. There is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.
18. Conditions relating to the protection of existing trees and hedgerows, appropriate new soft and hard landscaping, biodiversity enhancement and energy efficiency measures would ensure that landscaping is enhanced, and the development is built to high environmental standards.
19. The Council's Planning Officer's Report indicates that the GP practice has relocated to a new premises at the nearby Southborough Hub so suitable and comparable alternative facilities have been provided close to the site. Furthermore, there is limited market interest in the use of the site for a community or employment facility. As such, the Council finds the principle of the loss of the building as a community facility acceptable.

Conditions

20. I have had regard to the Council's suggested conditions and considered them against the statutory tests outlined in the Framework and the advice in the Planning Practice Guidance. I have made minor amendments, where necessary, to ensure that the conditions comply with these documents. In the interests of precision, I have included boundary treatments in the landscape condition. I have also removed the separate condition on avoiding damage to existing trees as this can be dealt with in the Arboricultural Method Statement and Tree Protection Plan required under a separate condition.
21. In addition to the standard time limit condition (1), I have imposed a condition requiring that the development is carried out in accordance with the approved plans (2). This is in the interest of certainty.
22. Conditions relating to external materials (3), soft and hard landscaping (6), the retention of trees and hedgerows (7), refuse storage (14) and external lighting (15) are necessary to protect the character and appearance of the area.
23. Pre-commencement conditions requiring details of levels (4) and an arboricultural method statement and tree protection plan (5) are necessary to

protect the character and appearance of the area. The appellant has agreed to these.

24. A condition is required to incorporate energy efficiency measures and renewable energy (8) to minimise carbon emissions. I have also imposed a condition requiring a scheme for biodiversity enhancement (9) to improve provision for species and habitats.
25. Conditions requiring obscure glazing and restrictions on openings of the second (10) and first (11) floor south facing windows are necessary to ensure that the development does not cause overlooking of neighbouring dwellings.
26. A condition on the provision of the parking, access and turning areas (12) is required to ensure that adequate parking provision is made. I have also imposed conditions requiring the enhancement of the shared vehicle and pedestrian route (13) and keeping this route permanently open and available for use as a pedestrian footpath (18). These are in the interests of pedestrian safety and maintaining the publicly accessible route.
27. Conditions restricting future development (16) and enclosures (17) are necessary to ensure satisfactory living conditions, to protect the character and appearance of the area and in the interests of pedestrian safety and access.

Conclusion

28. For the reasons given, I conclude that the proposal would accord with the development plan and the Framework, and therefore the appeal is allowed.

A Wright BSc (Hons) MRTPI

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: AL-001b, AL-101b, AL-102a, AL-103b, AL-105a, AL-106, AL-107, AL-104, AL-108a, and Details of Velfac Lockable Restrictor (VELFAC 200 alu / VELFAC 200i / VELFAC 200 ENERGY)
- 3) Notwithstanding the submitted details and approved plans, written details including source/ manufacturer, and photographic samples of bricks, tiles and cladding materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority before any above ground construction is commenced and the development shall be carried out using the approved external materials.
- 4) Notwithstanding the submitted drawings and all supporting documentation, prior to the commencement of development (excluding the demolition of the existing building and perimeter fencing) details of proposed levels within the development shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the proposed slab level of the dwellings relative to the existing ground levels and a fixed point in the access road to the north of the site. The development shall then be carried out in accordance with the approved details.
- 5) Notwithstanding the submitted drawings and all supporting documentation, prior to the commencement of development an Arboricultural Method Statement (AMS) and a Tree Protection Plan (TPP) in accordance with the current edition of BS 5837 shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved AMS and TPP.
- 6) Prior to the commencement of construction above ground level, a scheme containing details of both soft and hard landscaping for the site (which shall include entirely new planting, retention of existing planting and boundary treatments) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the retention of the landscaped area alongside the shared access road/footway and any new surfacing materials within that area. Thereafter, the soft landscaping shall be carried out in accordance with the approved scheme within 12 months of the completion of the development. Any trees or other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless otherwise agreed in writing by the Local Planning Authority. The hard landscaping shall be carried out in accordance with the approved scheme prior to the first occupation of any part of the development.
- 7) All existing trees and hedgerows shall be retained, unless shown on the approved drawings as being removed. All trees and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. Any tree or hedgerow removed without the Local Planning Authority's prior written permission or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged following completion of the approved development shall be replaced in the next planting season with another tree or hedgerow of the same size

and species at the same place unless otherwise agreed in writing by the Local Planning Authority.

- 8) Prior to the commencement of construction above ground level, full details of a scheme for the incorporation of energy efficiency measures and renewable energy (including the location of PV panels and resident/visitor electric vehicle charging points) shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall show electric vehicle charging points for each dwelling. The development shall be carried out in accordance with the approved scheme and retained thereafter.
- 9) Prior to the commencement of construction above ground level, a scheme for the enhancement of biodiversity on the site, including an implementation programme, shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancement measures shall be implemented in accordance with the approved scheme and the agreed implementation programme and maintained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
- 10) Prior to the first occupation of each dwelling hereby permitted the second floor south facing windows on the rear elevation of that dwelling shall be fitted with obscure glazing, Pilkington level 3 or higher (or equivalent) and the lower section fixed shut in accordance with the approved plans. Both the obscured glazing and the non-opening design shall be an integral part of the manufacturing process and not a modification or addition made at a later time. The windows shall thereafter be permanently retained as such.
- 11) Prior to the first occupation of each dwelling hereby permitted the first floor south facing bedroom windows on the rear elevation of that dwelling shall be fitted with obscure glazing, Pilkington level 3 or higher (or equivalent) and the windows fitted with restrictors in accordance with the approved drawings and opening restrictor details. The obscured glazing shall be an integral part of the manufacturing process and not a modification or addition made at a later time. The windows shall thereafter be permanently retained as such.
- 12) Prior to the first occupation of the development hereby permitted, the area shown on the approved drawings as vehicle parking space, access and turning shall be provided, surfaced and drained in accordance with details submitted to and approved in writing by the Local Planning Authority. It shall be retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking and turning space.
- 13) Prior to the first occupation of the development hereby permitted, a scheme of enhancement for the shared vehicle and pedestrian route within the application site shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with the approved scheme. The scheme shall include:
 - Details of new surfacing, which shall be bound and shall include a paved footway on the southern side of the footpath/roadway directly in front of the new dwellings;
 - Details of a scheme of signage to warn pedestrians of oncoming vehicular traffic and of the shared vehicular/pedestrian nature of the route;

- Provision of speed humps, which are suitably designed to slow traffic;
- Details of the retention or re-siting of the bollards and litter bins;
- Repair, cleaning and re-siting (if necessary) of the existing 'no cycling' sign;
- Details of the planting bed on the north side of the shared footpath/roadway including materials and height/position/alignment of the walling.

The development shall thereafter be retained in accordance with the approved details.

- 14) Prior to the first occupation of the development hereby permitted, details for the storage and screening of refuse shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, which shall thereafter be retained.
- 15) No external lighting shall be installed until details have been submitted to and approved in writing by the Local Planning Authority. This submission shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type, mounting height, aiming angles and luminaire profiles). The approved scheme shall be installed, maintained and operated in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order revoking or re-enacting that Order with or without modification), no development shall be carried out within Classes A, B, C, D, E or F of Part 1 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order) without prior planning permission from the Local Planning Authority.
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no gates, walls, fences or other means of enclosure shall be erected between the front wall of any dwelling hereby permitted and the shared road/footway from which access is taken (nor within the shared footpath/roadway) without the prior written planning permission of the Local Planning Authority.
- 18) The shared vehicle and pedestrian route within the application site shall be kept permanently open and available for use as a pedestrian footpath at all times. No development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order revoking and re-enacting that Order with or without modification), shall be carried out on that area of land so shown or in such a position as to preclude or restrict access in any way to this shared vehicular/pedestrian route.