



Appeal Decision

Site visit made on 24 June 2025

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2025

Appeal Ref: APP/H2265/W/25/3361029

113 High Street, Tonbridge, Kent TN9 1DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr S Khan against Tonbridge and Malling Borough Council.
 - The application Ref is 24/01917/PA.
 - The development proposed is for the “loft conversion and internal and external alterations to create 2 apartments”.
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Decision

1. The appeal is allowed and planning permission is granted for the loft conversion and internal and external alterations to create 2 apartments at 113 High Street, Tonbridge, Kent TN9 1DL in accordance with the terms of the application, Ref 24/01917/PA, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr S Khan against Tonbridge and Malling Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. This appeal relates to the failure of the Council to give notice of its decision on the application for the proposed development within the prescribed period. However, since the submission of the appeal the Council has provided a statement setting out its position on the proposed development, concluding that it would have granted planning permission subject to conditions.
4. Notwithstanding the Council’s position, the duty imposed under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring special attention to be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area (CA), would now fall to me.

Main Issue

5. In light of the above, the main issue is whether the proposal would preserve or enhance the character or appearance of the Tonbridge CA.

Reasons

6. The CA encompasses a large area incorporating the High Street, Tonbridge Castle, land around the River Medway and Tonbridge School and Victorian residential areas to the north of the town centre. Around the High Street, the CA is densely

developed, with 2-3 storey frontages in typically narrow, deep plots which contribute to a sense of enclosure along the street. Buildings are often highly articulated, using a limited palette of traditional materials including red brick, render, hung tiles and timber. There are frequently changing views due to the undulating land and street pattern, notably of the roofscapes and to the countryside beyond.

7. I consider the significance of the CA to be derived from the pattern of development, showing the relationship between the castle, river, High Street and the Victorian suburbs beyond. The plot widths, scale and materials contribute to the significance of the CA surrounding the appeal site.
8. The appeal site itself comprises a rendered 3-storey building fronting the High Street with a projecting red-brick wing to the rear. The rear wing is topped by a pitched, tiled roof which steps down towards the rear boundary. The proposal includes the upward extension of the rear wing such that the roof ridge would step up towards the rear boundary. The rear elevation of the appeal site is visible in limited public views from Lyons Crescent, otherwise the principal view would be from the car parking area and yard to the rear, along with views from nearby buildings.
9. The use of a pitched roof and matching brickwork would respect the character and appearance of the original building. The use of timber cladding to the southern elevation and eastern gable end at second floor would also be consistent with the character of the CA. The proposed first floor oriel windows, whilst modern in form, would be an appropriate treatment to a constrained site. The plant to the east elevation would largely be removed, which would make a positive contribution to the appearance of the CA in this location.
10. The extension to the rear projection would continue to be subservient to the main building. Due to its modest scale and materials to match the existing building, it would not appear prominent in views across the CA. In conclusion on this main issue therefore, I find that the appeal proposal would preserve the character or appearance of the CA.

Other Matters

11. New windows would be introduced in the south elevation of the rear wing at first and second floor levels. At first floor, the proposed oriel style windows would incorporate obscured glazing to the larger, south-western facing pane. At second floor, the windows would be in the form of rooflights set into the pitch of the roof. The form and angle of the windows would be such that they would maintain the privacy of those residents within the adjacent flats. A condition would be necessary to require the larger panel of glazing to be maintained as obscured glazing, to prevent any undue overlooking to the neighbouring property. No new windows are proposed in the north elevation.
12. Due to its modest increase in height, along with the use of pitched roofs sloping away from the site boundaries, the extension would not result in an unacceptable effect on outlook or upon daylight or sunlight to neighbouring occupiers either side of the appeal site. The proposal would reflect the densely developed nature of the area, and whilst it would be visible from the windows of neighbouring flats, I do not consider there would be a harmful effect upon the living conditions of adjacent residents. I have taken account of comments made by interested parties in respect

of these matters, however, I do not have substantive evidence to contradict the views of the Council in this respect.

13. The proposed flats would comply with the nationally described space standards and there would be satisfactory daylight and outlook.
14. The proposed section drawings show some excavation beneath the existing storage area to achieve the required levels. Given the site is within an area identified by the Council as having archaeological interest, it would be necessary to attach conditions requiring a programme of archaeological work to be secured prior to the commencement of any excavation works. I acknowledge the appellant's comments in this regard, however they would only apply in the event that there is excavation undertaken as part of the scheme, or where new foundations are proposed.
15. I note the views of interested parties regarding the absence of car parking for the proposed flats. Whilst there would be no off-street parking allocated to the flats, they would nevertheless be located close to day-to-day shops and facilities, employment and public transport. The Framework is clear in its support for new housing in sustainable locations and there is no substantive evidence before me that would indicate an unacceptable effect on highway safety arising from the proposal.
16. Refuse and cycle storage pertaining to the proposed flats is shown to the rear of the site and its provision and retention would need to be secured by planning condition. I have had regard to interested parties' comments in relation to refuse storage, however, the refuse storage for flats at 113-115 High Street is not a matter before me for determination.
17. The drawings show that a significant amount of plant would be removed from the rear of the commercial premises. I have no substantive evidence before me that an appropriate noise environment could not be achieved within the proposed residential units.

Conditions

18. The Council have provided some suggested conditions which I have considered against advice in the Framework and Planning Practice Guidance. I have attached the standard time limit condition (1) and a plans condition (2) as this provides certainty. Condition 3 regarding materials is necessary in the interests of the appearance of the development. Condition 4 is necessary to protect the living conditions of surrounding residents.
19. This site is constrained at the rear and is proximate to several other residential flats, along with residential parking within the rear yard outside the appeal site. Consequently, access for construction vehicles, storage and skips would have the potential to be disruptive for many surrounding residents. I have however scaled back the requirements of the Council's originally suggested Construction Management Plan condition (5) to restrict it to those matters I consider strictly necessary in the interests of protecting the living conditions of neighbouring residents. The appellant has agreed to the pre-commencement condition.
20. Conditions 6 and 7 are necessary in the interest of protecting archaeological remains should any excavation take place.

21. I note the suggested conditions from the Council's Environmental Health Officer requiring details of noise insulation between the commercial and residential premises. I have no substantive evidence that insulation between the ground and first floors requiring a 10dB improvement over Building Regulations standards would be required for the internal living environment of the flats to be acceptable, and I have not been referred to a particular development plan policy in this regard. I have therefore removed this suggested condition as I do not consider it necessary. Condition 8 requires a noise report to demonstrate the appropriate British Standard can be achieved with regard to external noise sources, with details of any mitigation measures required. This is necessary due to the site's busy town centre location.
22. Condition 9 is necessary to protect the privacy of surrounding residents, and condition 10 is necessary to ensure appropriate living conditions for future occupiers.

Conclusion

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

L Francis

INSPECTOR

Schedule

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan; 20241122-PL01; 20241122-PL02; 20241122-PL03; 20241122-PL04; 20241122-PL05; 20241122-PL06; 20241122-PL07; 20241122-PL08.
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building unless otherwise shown on the approved plans.
4. Demolition or construction works shall take place only between 08.00 to 18.00 on Monday to Friday, 08.00 to 13.00 on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.
5. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall provide for:
 - i. the parking of vehicles of site operatives and visitors;
 - ii. loading and unloading of plant and materials;
 - iii. storage of plant and materials used in constructing the development;
 - iv. measures to control the emission of dust and dirt during construction;

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

6. No works of excavation, other than for the purposes of ground investigation, removal of hardstanding or site survey work, shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written specification and timetable which has been submitted to and approved in writing by the local planning authority.
7. No works of excavation, other than for the purposes of ground investigation, removal of hardstanding or site survey work shall take place until details of foundation designs and any other proposals involving below ground excavation have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
8. Prior to the first occupation of the development hereby approved, a noise report shall be submitted to and approved by the local planning authority, setting out how internal noise levels no greater than 30dB LAeq, 8-hr (night) and 35dB LAeq, 16-hr (day) in bedrooms, 35dB LAeq, 16-hr (day) in living rooms and 40dB LAeq, 16-hr (day) in dining rooms/areas can be achieved. These levels need to be

achieved with windows at least partially open, unless satisfactory alternative means of ventilation is to be provided. The details shall be fully implemented as approved and thereafter retained and maintained at all times for as long as the development remains.

9. The south-west facing panes of the oriel windows shall be obscure glazed and restricted to opening no more than 150mm, thereafter maintained for the lifetime of the development.
10. The bicycle and refuse storage shown on drawing 20241122-PL05 shall be provided and made available for use prior to first occupation of the development and maintained for the lifetime of the development.