



Appeal Decision

Site Visit made on 7 June 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal Ref: APP/Z3635/W/21/3268257

31 Denman Drive, Ashford TW15 2AN

- 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 T Gupta against the decision of Spelthorne Borough Council.
 - The application Ref 20/01251/FUL, dated 21 October 2020, was refused by notice dated 16 December 2020.
 - The development proposed is described as, "Erection of a part single storey, part two storey side and rear extension, and subdivision of the plot to create an additional one bedroom dwelling".
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Decision

1. The appeal is dismissed.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

3. An amended plan was submitted at the appeal stage¹, which changes the position of the proposed new fence between the existing dwelling and the proposed new dwelling. This drawing does not substantially alter the nature of the proposal, and I am satisfied that the parties' interests would not be prejudiced by the drawing being considered in this appeal. Therefore, I have considered the drawing as part of this appeal.
4. Another amended plan was submitted at the appeal stage², which shows a front door in the north elevation, with consequential changes, including a window in the west elevation. As the changes would materially and substantially alter the appearance of the proposal, I find that this additional drawing represents a material change to the scheme to that which was submitted to the Council. The 'Procedural Guide: Planning appeals – England' makes it clear that 'the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought'.
5. Therefore, I have not considered the drawing as part of this appeal. Although no representations from interested parties have been received at the appeal stage, this does not change the principle that to do otherwise would deprive

¹ 2635-RDJWL-ZZ-ZZ-DR-A-0026 (Rev C2)

² 2635-RDJWL-ZZ-ZZ-DR-A-0027 (Rev P1)

those who should have been consulted on the change, the opportunity of such consultation.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

7. The appeal site comprises a 2-storey end-of-terrace dwelling, located on a corner plot in a predominantly residential area. This row of terraced dwellings are largely similar with respect to their set-back distances from the road, their widths, and their overall appearance, including front doorways facing the road. Another row of terraced dwellings is located to the west of the site, which exhibit similar features. The 2 terraces are set behind a green area.
8. This arrangement of 2 terraces is largely mirrored on the opposite side of Denman Drive, albeit that a parking area lies in front of those properties, with a green area around that parking area. Another row of similarly-designed terraced dwellings lies across the road from that parking area. Several of the end-of-terrace dwellings exhibit side extensions which have maintained the dominant building lines and heights of their respective terraces. As such, the immediate area has a strong and legible sense of place.
9. The proposal seeks to sub-divide the appeal site and to create a new dwelling at the end of the terraced row, with a subordinate relationship to its host property. I have taken account of the rationale with respect to its subservient design. However, in notable contrast to the layout of its host terrace described above, the new dwelling would be set back significantly from both the existing property and the other dwellings in the terrace. Considering its proposed use as a new dwelling, the proposal would conflict with paragraph 4.40 b) of the Design SPD³ which requires a resulting extended building to be appropriate in terms of building line. The rationale provided for the set-back proposed is noted, but this would not alleviate the planning harm arising. Furthermore, the new dwelling would be noticeably lesser in width than many of the other dwellings in the terrace.
10. Moreover, the dwelling would have its front door in its western flank elevation, rather than in the north elevation as per all the other dwellings in the terrace. Although the Design SPD does not specifically require that the front door of a new dwelling must be in its front elevation, it does require that where existing development fronts the street this should be followed in new development. In this regard, the absence of the main entrance on the front elevation would conflict with the existing pattern of development. I observed that the proposed new dwelling would be clearly seen from further afield, including from the junction between Mayfield Close and Denman Drive. In combination, all these factors would mean that the proposal would have an incongruous appearance amongst the row of terraced properties.
11. As such, it would conflict with the guidance given in the Design SPD which advises that for houses and flats alike, the height, depth, width and form of proposed buildings should be similar to those prevailing in the street frontage.

³ Design of Residential Extensions and New Residential Development Supplementary Planning Document (adopted 2011)

Although the Design SPD comprises guidance, which must be applied to the particular circumstances at hand, in this case the conflict with its requirements would cause material harm. Overall, the proposal would not be sympathetic to the prevailing pattern of development in the vicinity, and consequently it would materially undermine its character and its sense of place.

12. Additionally, although the site has a larger-than-typical plot size than is common in the local area and the new dwelling would have acceptable separation distances to its neighbours in residential amenity terms, as the new dwelling would be a narrow property located on a corner with its built form enclosing much of the existing gap between the 2 sets of terraces, it would have a cramped appearance. The size and shape of the resulting garden area would not adequately mitigate its cramped appearance from wider views.
13. The appellant has referred to a fall-back position relating to an extant planning permission for the extension of the existing house, which I consider is a realistic fall-back position. The extant planning permission would be similar in size, position, and scale to the appeal proposal, and I have taken note of the fact that the Design SPD indicates that many of its stated principles relating to extensions also apply when new residential development is contemplated, and that most of its guidance on the design of extensions equally applies to new dwellings, and that its guidance relating to the character of the area for new residential development cross-references the guidance applicable to the design of extensions. I have also taken careful note of the 'Character checklist' found in the Design SPD.
14. However, that extant permission would not sub-divide the plot. Moreover, considering its internal layout as shown on the plans supplied by the appellant, it would not create an additional dwelling suitable for a single family which would likely be occupied by an independent and unrelated household to the existing property, as would occur via the appeal proposal. In this respect, it is important note that whilst the fall-back position would share some outward visible qualities with the appeal proposal, the character of an area also encompasses its own distinctive identity, which includes how it functions and how it is experienced.
15. As such, whilst it is clear that the Council found the application for an extension to be acceptable in this location, including in terms of its scale, form and appearance, the appeal proposal for a separate self-contained unit of accommodation involves a materially different type of use, with a correspondingly materially different effect on the character of the area.
16. Furthermore, the doorway which would be present in the western flank elevation of the extension under the extant permission would not be the main entrance to a separate, self-contained dwelling, as proposed in this appeal. Rather, the door would be accessible from all parts of host dwelling and it would function as a secondary door to a utility area and a bathroom. Therefore, taking all these considerations into account, I consider that the extant permission is materially different to the proposal before me and that, if implemented, it would be less harmful than the appeal proposal. Accordingly, the extant permission has been given limited weight, and it does not outweigh the harm identified.
17. I have had regard to the documents submitted by both main parties with respect to No 41 Ruggles Brise Road, Ashford. I note that this example

demonstrates the principle that an existing planning permission for an ancillary extension does not automatically justify consent for a new similarly-designed dwelling. However, the Inspector in that appeal found the differences between the schemes to be significant in visual terms, whereas the appeal proposal and the extant permission are similar in appearance. Therefore, apart from the principle demonstrated, that example does not offer further support for the proposal.

18. Taking all of the above into account, I therefore find that the proposal would have an unacceptable and significantly harmful effect on the character and appearance of the surrounding area. It would conflict with Policy EN1 of the Core Strategy and Policies Development Plan Document (adopted 2009) (Core Strategy), which provides that, amongst other things, proposals for new development should respect and make a positive contribution to the street scene and the character of the area in which they are situated. It would also conflict with paragraph 127 of the National Planning Policy Framework (the Framework) which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character.

Other Matters / Planning Balance

19. The Council did not refuse the application on grounds including the living conditions of neighbouring occupiers, garden / private amenity space, landscaping, vehicular access, waste collection, parking, highway safety, or security. However, these are all neutral matters, which do not weigh in favour of the proposal.
20. The main parties are in agreement that the Council can only demonstrate 4.8 years supply of housing. Nevertheless, this is a modest shortfall with respect to the 5 year requirement referred to in the Framework. The proposal would make a minimal contribution to addressing this shortfall and to the Government's broader objective of significantly boosting the supply of homes, via the creation of one new dwelling in an established urban area, outside of the Green Belt and the flood plain. As such, the proposal would comply with Strategic Policy SP1 of the Core Strategy, which provides that, amongst other things, the extent of the existing urban area will be maintained and provision for all new development will be made within it.
21. The proposed new dwelling would contribute to the mix of housing in the local area, specifically with respect to the provision of smaller-sized accommodation. Whilst criterion a) of Policy HO4 of the Core Strategy relates to developments that propose 4 or more dwellings, I accept that the proposal accords with the overall thrust of that policy in terms of the provision of smaller units of accommodation.
22. Although the appellant has referred to Policy HO1 of the Core Strategy, taking account of my findings on the main issue, the proposal would conflict with other policy objectives in relation to the character and appearance of the area. Based on the figure provided by the appellant, which has not been disputed by the Council, the proposal would accord with criterion a) of Policy HO5 of the Core Strategy, which relates to the density of housing development, although it has not been demonstrated that the proposal would make optimal use of the potential of the site.

23. Additionally, as the appeal site currently contains a dwelling and its private amenity areas, it has not been demonstrated that the site comprises under-utilised land for the purposes of paragraph 118 d) of the Framework. Moreover, as the proposal would partly be built on a residential garden, it has not been demonstrated that the proposal would utilise brownfield / previously developed land with respect to the definition given in the Framework.
24. Taken together, all the benefits mentioned above offer modest support for the proposal, and collectively I have given them moderate weight. Taking all these other considerations into account, I find that the identified benefits of the proposal, do not, either individually or collectively, outweigh the significant planning harm identified on the main issue, nor the conflict with the development plan when considered as a whole.
25. As stated above, the Council cannot demonstrate a 5-year supply of deliverable housing sites. Also, the latest Housing Delivery Test results place the Council in the 'presumption' category. As such, the most important policies relating to this appeal are out-of-date and paragraph 11 d) ii of the Framework is engaged. I have taken full account of all the matters advanced in support of the proposal. Nevertheless, the harm arising via the proposal, as identified on the main issue, would be significant and palpable, and therefore I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Hence, the presumption in favour of sustainable development, detailed in the Framework, does not apply.

Conclusion

26. For the reasons given above I find that the proposal would conflict with the development plan when considered as a whole. None of the other considerations, which include the Framework, indicate that this appeal decision should be taken otherwise than in accordance with the development plan. The appeal is therefore dismissed.

Alexander O'Doherty

INSPECTOR