



Appeal Decisions

Site visit made on 4 October 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 November 2022

Appeal A Ref: APP/Z3635/W/21/3282635

5 Marlborough Road, Ashford TW15 3PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Jagir Thandi against the decision of Borough of Spelthorne Council.
 - The application Ref 20/01438/OUT, dated 27 November 2020, was refused by notice dated 10 March 2021.
 - The development proposed is demolition of existing house and construction of a block of 4 self contained flats.
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Appeal B Ref: APP/Z3635/W/21/3282639

5 Marlborough Road, Ashford TW15 3PZ

- 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 Jagir Thandi against the decision of Spelthorne Borough Council.
 - The application Ref 20/1579/FUL dated 3 December 2020 was refused by notice dated 10 March 2021.
 - The development proposed is demolition of existing house and construction of a block of 4 self contained flats.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. This decision relates to two appeals on the site. Appeal A relates to an application for outline planning permission, with matters of access, layout and scale submitted for approval. Matters for which approval is not sought are appearance and landscaping. The appellant has made clear among the appeal documents that the elevational drawings are illustrative, and I have therefore treated them as such.
4. The appeal site has planning permission for the demolition of the previous dwelling and erection of a pair of semi-detached dwellings with associated parking and amenity space, granted by the Council on 2 August 2021¹. A separate appeal relates to the variation of the approved drawings of that planning permission, and this is dealt with by a separate decision².

¹ 21/00804/FUL

² APP/Z3636/W/21/3287804

5. I observed during my site visit that the previous building had been demolished and new walls at the ground floor level were under construction.

Main Issues

6. The main issues are the effects of the proposed development on:
 - i) the character and appearance of the area;
 - ii) the living conditions of the occupants of 3 Marlborough Road, with particular regard to daylight and;
 - iii) highway safety, with particular regard to parking provision.
7. With regard to Appeal B, there is an additional main issue of whether the development would provide an acceptable standard of accommodation for future occupiers in terms of internal floor space.

Reasons

Character and Appearance

8. The appeal site lies within a predominately residential area comprising two storey properties and bungalows, following largely consistent building lines on either side of long, straight streets. The properties are generally of traditional design, but of varying scale and with different architectural features. Marlborough Road and the surrounding area exhibits a variety of roof forms including front gable features of varying sizes. The variation in the roof forms on the street, in combination with the straight front building lines, adds visual interest and contributes positively to the character and appearance of the area.
9. Policy HO5 of the Core Strategy and Policies: Development Plan Document 2009 (the DPD) seeks a density in the range of 35 to 55 dwellings per hectare in areas characterised predominantly by family housing. The Council calculate the proposed density for both appeals would be 111 dwellings per hectare, far exceeding the figure in the policy. This figure is not disputed by the appellant. Despite this, the policy is clear that it contains density guidelines and that a higher density may be acceptable if the development meets Policy EN1 relating to design and, among other things, the compatibility with the character of the area.
10. In the case of Appeal A, matters of appearance and landscaping are not submitted for approval. However, the Planning Practice Guidance (the PPG) is clear that consideration of scale includes the height of the buildings proposed. In this case the supporting drawing clearly shows the development would comprise three full storeys. While there are some examples of taller buildings in the wider area, particularly towards Ashford station to the north, the prevailing character of Marlborough Road does not include buildings of this scale. Where second floor accommodation exists, this is usually contained within the pitched roof slopes of the properties, rather than being a full storey.
11. Despite the proposed development being set back from the building lines of the neighbouring properties, the full second floor would appear visually prominent, particularly where it would sit forward of the neighbouring ridgelines and would be apparent in longer views along Marlborough Road and from the junction with Chesterfield Road to the north. In those views it would appear in stark

contrast to its surroundings and appear as a visually incongruous and alien development in this context.

12. For these reasons, Appeal A would cause significant harm to the character of the area. It would conflict with Policy EN1 of the DPD and the aims of the 'Design of Residential Extensions and New Residential Development' Supplementary Planning Document 2011 (the SPD), which among other things, require development to make a positive contribution to the street scene and pay regard to matters including scale and height of adjoining buildings. As a consequence, there would also be conflict with Policy HO5 of the DPD as the density is not supported by the design of the development.
13. In the case of Appeal B, the proposed development would comprise two storeys with accommodation in the roof slopes above, which is reflective of the building forms on Marlborough Road. This would include areas of flat roofs behind the pitches, which are uncharacteristic of the area based on the findings of my site visit and the evidence. Despite this, the areas of flat roof would be set back from the street behind a traditional roof pitch and would be largely level with the ridgeline of the neighbouring properties. Together with the narrow gaps to the neighbouring properties, the areas of flat roof would have limited visibility from the street, except in glimpses when passing in front of the site.
14. The area of flat roof which extends over the rear of the development would be visible from surrounding private viewpoints from properties and gardens. However, the proposed rear elevation would similarly include large pitched roofs and, given the varied design and appearance of other rear extensions in the area, it would not appear unduly prominent or incongruous.
15. The proposed off-street parking area of Appeal B would exceed 50% of the width of the frontage, in conflict with the SPD. However, given the variation in the off-street parking layouts in the surrounding area and as soft landscaping around the parking is proposed, this would not cause visual harm.
16. For the reasons given, Appeal B would not cause harm to the character and appearance of the area and would comply with Policy EN1 of the DPD and the SPD, insofar as they require development to be attractive and make a positive contribution to the street scene and the area. In turn, there would not be conflict with Policy HO5 of the DPD relating to density.

Living Conditions of 3 Marlborough Road

17. No.3 Marlborough Road is a semi-detached property to the north of the appeal site and its rear elevation includes doors and windows at the ground floor level. Closest to the boundary shared with the appeal site is a window and a partially glazed door, which would appear to serve a kitchen. This would be considered a habitable room, and should receive adequate natural daylighting. At the first floor level the window closest to the boundary is obscure glazed and appears to serve a bathroom.
18. The SPD includes measures which can be used to establish whether new development would be likely to maintain adequate daylighting levels to neighbouring rooms. This includes a 45 degree horizontal and 45 degree vertical guide test.
19. In respect of Appeal A, as the site layout and scale are matters for consideration, there is a degree of certainty of the relationship of the

development to the windows of no.3, particularly the ground floor window and door. While not specifically shown on the plans, the development would be likely to breach the 45 degree vertical guide test to the ground floor window and door, due to its height and proximity to the boundary. While a 45 degree horizontal guide line is shown on the plans, it is not taken from the nearest window and, based on the drawings, it is likely that line would also be breached by the development. I do not have substantive evidence to the contrary and, through breaching both parts of the SPD test, the proposal would be very likely to have an unacceptable impact on the provision of daylight to the rear window of no.3. In addition, due to the positioning of the three storey wall to the south of the rear elevation of no.3, the development would be likely to have a harmful impact on sunlight received to those nearest windows. This would result in that room being darker and more gloomy, requiring artificial lighting.

20. Taking these matters together, the development proposed under Appeal A would have a harmful impact on the overall living conditions enjoyed by the occupants of no.3. As such, the proposal would conflict with Policy EN1 of the DPD and the SPD insofar as they seek to avoid harmful impacts on adjoining properties.
21. The Council's decision notice refers to the provision of balconies giving rise to unacceptable opportunities for overlooking. However, as these relate to the appearance of the development as part of the external built form, I do not consider it necessary to consider them at this stage. As such, they do not weigh against Appeal A.
22. With regard to Appeal B, based on the supporting drawings, it is not clear whether the 45 degree vertical or horizontal guide lines from the nearest ground floor window of no.3 would be breached. While the appellant states the test is met, I do not have evidence to demonstrate that this would be the case, particularly as the 45 degree line on the floorplan is again not taken from the relevant window. Based on the evidence, the development would fail to meet those tests and would be likely to have a harmful impact on the provision of daylight to no.3. While no.3 has a number of windows and doors in its rear elevation, in the absence of information regarding provision of daylight to the elevation, I cannot be satisfied that the overall impact would be acceptable.
23. For these reasons, the development proposed under Appeal B would cause harm to the living conditions of the occupants of no.3 and similarly fail to comply with EN1 of the DPD and the SPD in relation to their objectives relating to living conditions.

Highway Safety and Parking

24. Both Appeals A and B would include 4 off-street car parking spaces at the front of the site. The Council report that both developments would fall short of the adopted parking standards. Policy CC3 of the DPD states that the parking standards are maximum levels of provision.
25. Marlborough Road and several of the neighbouring streets have unrestricted parking and, at the time of my site visit, I found there to be ample space available for parking on the street within the vicinity of the appeal site. While I appreciate that this was a snapshot in time in the middle of the day, I do not have evidence before me to suggest that this is not characteristic of other times of day. Therefore, even if the development were to generate additional

demand for on street parking, this would be unlikely to cause harm to highway safety.

26. In addition, the appeal site benefits from good accessibility to public transport, being within reasonable walking distance of Ashford station and the bus services which operate through Ashford. For these reasons, taken together and in light of the parking standards being a maximum level of provision, the proposed level of car parking would be acceptable and not cause harm to highway safety.
27. In respect of this main issue, both Appeal A and Appeal B would comply with Policy CC3 of the DPD which relates to car parking standards.

Standard of Accommodation

28. This main issue is only relevant to Appeal B. The Nationally Described Space Standard (NDSS), together with the SPD set out internal space standards for new dwellings.
29. The two upper floor units would each contain two bedrooms and would be set over two floors. The appellant has stated that these are 3 person flats. However, based on the plans, it appears likely that these could each be occupied by 4 persons given the size of the bedrooms. As such the NDSS sets a minimum floorspace requirement of 79sqm and the SPD sets a minimum of 83sqm.
30. The annotations on the supporting plans suggest those units would comprise 77.01sqm, thereby falling short of both minimum requirements. While this is a relatively small shortfall below the NDSS, the standard is, nonetheless, a minimum requirement. Through failing to meet the minimum standard, those units would feel cramped and oppressive to their future occupiers. I do not have evidence of other material considerations of sufficient weight which would justify the shortfall from the required standard.
31. As a consequence, the upper units of accommodation within Appeal B would fail to provide a satisfactory standard of accommodation for future occupiers. The development would conflict with the NDSS and the SPD, which together seek to provide satisfactory standards of accommodation. There is also conflict with the Framework at paragraph 130, insofar as it requires development to provide a high standard of amenity for future users.

Planning Balance

32. The Council accepts that it does not have a 5 year land supply for housing. As such, the provisions of paragraph 11 of the Framework are relevant to the appeals and planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.
33. The Council state the level of housing land supply to be 4.8 years, and this is not disputed by the appellant. Both Appeal A and Appeal B would contribute a net addition of 3 units to the stock of housing, in a location with good accessibility to certain services and facilities including public transport, which weighs in favour of the development, all the more so given the current undersupply of homes. These would be delivered on a small site, which paragraph 69 of the Framework recognises as one which can make an

important contribution to meeting the housing requirement of an area, and which can often be built out relatively quickly. In addition, there would be economic benefits from both of the developments arising from the construction process as well as the economic activity of future occupants. Taken together, these benefits attract moderate weight, given the scale of the proposals.

34. In the case of Appeal A, the appellant states the proposed development is intended to provide visual interest through creating architectural diversity. I note a third party representation which similarly supports the proposal for this reason. However, as details of appearance do not form part of the considerations of that appeal, and as I have found harm arising through the scale in any event, I do not afford this weight as a benefit of the proposal.
35. Appeal A would cause harm to the character and appearance of the area and also to the living conditions of the neighbouring occupants. Those harms would be significant and long lasting, and I afford them substantial weight. Consequently, in terms of Appeal A, I find that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole. Appeal A would not therefore benefit from the presumption in favour of sustainable development.
36. Appeal B would cause harm to the living conditions of the neighbouring occupiers and also fail to provide an acceptable standard of accommodation for the occupiers of some of the units. Similarly, these impacts would be significant and attract substantial weight. In terms of Appeal B, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole. Appeal B would not therefore benefit from the presumption in favour of sustainable development.

Conclusion

37. For the above reasons, having taken account of the development plan as a whole, the approach in the Framework, along with all other relevant material considerations, both Appeal A and Appeal B are dismissed.

C Shearing

INSPECTOR