



Appeal Decision

Site visit made on 13 December 2022

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2023

Appeal Ref: APP/J1915/W/21/3288808

49 The Stewarts, Bishop's Stortford CM23 2NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 Paul Hughes against East Hertfordshire District Council.
 - The application Ref 3/21/2189/HH, is dated 17 August 2021.
 - The development proposed is part single, part two storey rear extension. Conversion of garage to habitable room and external render of property.
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Decision

1. The appeal is allowed and planning permission is granted for part single, part two storey rear extension. Conversion of garage to habitable room and external render of property at 49 The Stewarts, Bishop's Stortford CM23 2NU in accordance with the terms of the application, Ref 3/21/2189/HH, dated 17 August 2021, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin no longer 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:

Location Plan – ADS036/PL/101

Proposed Floor Plans – ADS036/PL/201

Proposed Elevations – ADS036/PL/202
 - 3) The development hereby approved shall only be carried out in accordance with the materials specified within Part 5 of the planning application form dated 17 August 2021.
 - 4) The extension hereby permitted shall not be occupied until the windows at first floor level in the side elevation have been fitted with obscure glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscure glazing shall be retained thereafter.

Preliminary Matters

2. In validating the application, the Council amended the description of the proposed development. This change in description was agreed by the appellant,

who also used it on the appeal form. As this amended description more accurately describes the proposed development, I have used it in my decision.

3. The Council failed to give notice within the prescribed period, however it has provided evidence which sets out that planning permission would have been granted for the proposed development, and that as a result, the appeal is not contested. However, representations were made by third parties with regards to the proposed development, and accordingly, the issues raised within these representations have framed my main issues.
4. The provided plans indicate that the property previously hosted single storey rear and side extensions, however as building work had already commenced at the site at the time of my visit, these were no longer evident in their original form. However, I am uncertain regarding the planning status of the works that were being carried out. Therefore, I have determined the appeal with reference to the submitted plans.

Main Issues

5. The main issues are:
 - The effect of the proposed development upon the character and appearance of the area, and;
 - The effect of the proposed development upon the living conditions of occupiers of existing neighbouring properties with specific regard to light, outlook or privacy.

Reasons

Character and Appearance

6. The appeal site relates to a semi-detached dwelling situated at the end of cul-de-sac, within an existing residential area. As the property is located at the outside of a turning area, the appeal site is a wedge-shaped plot, which widens towards the rear.
7. The proposed development would comprise a single-storey extension across the rear of the property, with a two-storey element located in a broadly central position within the revised rear elevation. The provided plans indicate the single-storey elements would incorporate flat roofs, with the two-storey element featuring a pitched roof following the fall of the existing hipped main roof. It would also include the application of render to the host property.
8. The proposed extension would be situated at the rear of the property, the rear garden of which is surrounded by the rear gardens of other residential properties. Accordingly, this element of the development would not be widely visible within wider area.
9. Furthermore, the proposed development would be of a scale appropriate to the host property, the plot within which it sits and would not, therefore, comprise overdevelopment. It would respect the existing design features of the host dwelling where single storey flat roof projections are an established form of design and are only discouraged by Policy HOU11 of the East Herts District Plan 2018 (EHDP) where they do not relate to single storey development.

10. The proposed use of light-coloured render would differ from the original brick construction of the property, however it would not appear incongruous within the area, where there are other examples of the use of this material.
11. Accordingly, I consider that the proposed development would not lead to harm to the character and appearance of the area. It would therefore be in accordance with EHDP Policies DES4 and HOU11, and Bishop's Stortford Neighbourhood Plan (BSNP) Policies HDP1 and HDP2 which together, and amongst other criteria require extensions and alterations to dwellings to be of a size, scale, mass, form, siting, design and materials that are appropriate to the character, appearance and setting of the existing dwelling and surrounding area.

Living Conditions

12. The proposed development would result in single storey development close to the shared boundary with the neighbouring property, 47 The Stewarts (No 47). However, I was able to see that No 47 currently hosts a garage structure adjacent to this boundary, which would provide a degree of screening. The main dwelling at No 47 would be separated, to an extent, from the shared boundary, and the proposed two storey rear extension at the appeal site would be located away from the shared boundary, minimising any impacts. Accordingly, the proposed development, would not result in harm to the living conditions of occupiers of No 47 in terms of outlook or light.
13. Two windows are indicated on the provided plans as being located within the side elevation on the boundary with No 47. However, these windows are indicated on the plans as being obscured glazed and would serve bathrooms. Therefore, they would not result in harm to the living conditions of the occupiers of No 47 with regard to loss of privacy, and the retention of these windows as being obscure glazed and non-opening can be secured by means of a planning condition.
14. Although the proposed render finish to the elevation facing towards No 47 may appear bright in appearance, particularly when first completed, this will, over time soften through weathering, and I have been presented with no substantive evidence to suggest that at any time would this commonly used material be excessively reflective. Accordingly, the proposed render would not result in harm to the living conditions of the occupiers of this property.
15. With regard to the effect of the proposed development upon the living conditions of occupiers of 51 The Stewarts (No 51), the two-storey rear extension would be set away from this shared boundary, however the single storey element would sit closer to the shared boundary but would be of similar scale to an existing single storey projection on No 51. Whilst it is likely that the proposed development would have some effect on the level of light and outlook available to occupiers of No 51, it would not appear as overbearing, and I consider that the size of the garden, the scale of the proposed development, and the situation of the proposed two-storey element away from the shared boundary means that any effect would be minor, and would not amount to an unacceptable level of harm.
16. It is possible that any maintenance carried out on structures erected close a shared boundary would have the potential to lead to a loss privacy for occupiers of neighbouring properties as works are carried out. However, such

works are likely to be infrequent and short-term in nature. Consequently, the effect upon the living conditions of the occupiers of these properties would not be significantly harmed.

17. Both the appellant and representations make reference to a '45-degree test' in relation to the relationship of the proposed development with an existing window a No 51. However, I have not been directed to any specific policy requirement relating to the carrying out of such a test, and I was able to adequately consider the potential relationship of the proposed development with No 51 at my site visit. Similarly, although representations make reference to a policy of restricting rear extensions to a maximum of 3 meters of projection, I have not been directed to any specific policy requirement in relation to this. Consequently, I have assessed the effect of the proposed development on its merits, having regard to its context and relationship to neighbouring properties.
18. Concern has also been raised that no Right-to-Light survey has been provided, however this relates to a separate legal framework which sits outside of planning legislation. Nevertheless, as set out above, I have considered the issue of loss of light as a result of the proposed development insofar as it relates to the living conditions of the occupiers of neighbouring properties, and in the context of the requirements of policies within the EHDP and BSNP in reaching my decision.
19. I have found that the proposed development would not lead to unacceptable harm to the living condition of occupiers of neighbouring properties with specific regard to light, outlook or privacy. Accordingly, it would be in accordance with EHDP Policy DES4 and BSNP Policy HDP1 which together, and amongst other criteria, require new development to avoid significant detrimental impacts to the living conditions of occupiers of neighbouring properties

Other Matters

20. I acknowledge concerns relating to the use of a flat-roof design to the single-storey element of the proposed development and the potential implications that this would have in relation to drainage, including the existing downpipe arrangement. The management of rainwater drainage from the roofs of buildings is a requirement of the Building Regulations, and therefore covered by separate legislation. Furthermore, I have not been provided with any substantive evidence that it would not be feasible to adequately drain the proposed development. Accordingly, I have not afforded this concern significant weight in my consideration.

Conditions

21. The Council has provided a list of conditions. Where necessary, I have made minor amendments in the interests of clarity and the meeting the policy tests set out in the National Planning Policy Framework ('the Framework') and Planning Practice Guidance ('PPG').
22. In addition to a condition relating to the standard time limit for commencing development, I have attached conditions specifying the approved plans and proposed materials in order to ensure that the development does not harm the character and appearance of the surrounding area.

23. I have also attached a condition ensuring that the proposed first-floor bathroom windows are installed with obscure glazing and a non-opening below a height of 1.7m and are retained as such thereafter. This condition is required in order to preserve the living conditions of occupiers of No 47 with regard to privacy.

Conclusion

24. The proposed development would accord with the development plan as a whole, and there are no material considerations, including the Framework, that would lead me to conclude that a decision should be made other than in accordance with the development plan.
25. For the above reasons, I conclude that the appeal should be allowed, and planning permission granted.

C Harding

INSPECTOR