



Appeal Decision

Site visit made on 19 May 2023

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023.

Appeal Ref: APP/A1910/W/22/3309919

11 Moorland Road, Hemel Hempstead, Hertfordshire, HP1 1NQ

- 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 Dr Michael Cullinan against the decision of Dacorum Borough Council.
 - The application Ref 22/02002/FUL dated 24 June 2022, was refused by notice dated 19 August 2022.
 - The development proposed is described on the application form as "Demolition of a single storey office building to the rear of the site and the construction of a two storey detached dwelling house with a room in the roof. New off street parking for the existing and proposed dwelling and general external works".
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Decision

1. The appeal is dismissed.

Main issues

2. Within the context of the Council's reasons for refusal and the evidence in this case, the main issues are the effect of the development on the living conditions of:-
 - neighbouring occupiers at No 1 Grove Road and Nos 7, 9 & 11 Moorland Road, with particular regard to visual impact, outlook, privacy and light;
 - future occupiers of the proposed dwelling, with particular regard to outlook.

Reasons

3. My assessment of the area accords with character appraisal contained in the Council's area based policies¹, which describes it as having a central core featuring much Victorian and Edwardian development, primarily in terraced and semi-detached form, with later infilling and redevelopment of former commercial uses with modern housing in a variety of architectural styles.
4. The appeal site contains an attractive semi-detached 2½ storey dwellinghouse constructed in the first half of the 20th century with a small detached single storey building to the rear that fronts onto Grove Road. This structure, which the proposed dwelling would replace, was originally constructed as a single garage, but is now used as an office in association with the host dwelling (No 11 Moorland Road).

¹ Area Based Policies, Supplementary Planning Guidance, May 2004, Dacorum Borough Council.

5. The appeal site and Grove Road slope down in a southerly direction towards Moorland Road. To the north of the appeal site lies a row of attractive 2/2½ storey Victorian/Edwardian semi-detached houses.

Living conditions

6. As a result of the appeal site's gradient and compact size, the proposed dwelling would sit on higher ground than Nos 9 and 11 Moorland Road and be in close proximity to their rear gardens. As a consequence of this and its 2-storey height, the proposed dwelling would appear visually intrusive & oppressive to the occupants of these neighbouring properties when using their rear gardens and dominate the outlook therefrom, which would be harmful to their living conditions.
7. There would also be limited intervening distance between the proposed 2nd floor rear elevation dormer window and the rear gardens of Nos 7 & 9 Moorland Road and No 1 Grove Road, which would give rise to significant overlooking. I also have concerns about the potential for overlooking from this dormer into the first floor side elevation bedroom window of No 1 Grove Road. As a consequence, the scheme would be harmful to the living conditions of occupiers of these properties by reason of loss of privacy.
8. Although the appellant's sunpath analysis reveals that the scheme would result in a significant reduction in direct sunlight to the side elevation windows and rear garden of No 1 Grove Road from approximately mid-to-late afternoon onwards, they would not be directly obstructed or enclosed by the development and would therefore continue to receive an acceptable amount of diffuse daylight. As a consequence, I am satisfied that the occupiers of this property would continue to receive an adequate overall standard of light to their property and rear garden².
9. The sunpath analysis also reveals that there would be a moderate-to-significant loss of direct sunlight to Nos 3, 5, 7 and 9 Moorland Road from approximately late afternoon onwards. However, in view of the intervening distance between the scheme and Nos 3, 5 and 7, I am satisfied that the occupiers of these properties would continue to receive an adequate amount of diffuse daylight and that the overall standard of light to their rear gardens would be acceptable. In terms of No 9, the impact of the scheme would be very different. In this case, the proposed dwelling would be in very close proximity to the shared boundary with its neighbour and accordingly cause a significant reduction in diffuse daylight to this property's garden. The combined reduction in direct sunlight and diffuse daylight to No 9 has led me to conclude that its occupiers would not continue to receive an adequate overall standard of light to their rear garden, which would be harmful to their living conditions.
10. The proposed dwelling would only have a limited impact on the amount of direct sunlight received by No 11 Moorland Road because of its position to the north of this property and the daily arc of the sun³. I am also satisfied that the impact of the scheme on the amount of diffuse daylight received by the newly reduced rear garden to No 11 would not be materially different to that which

² Light is composed of direct sunlight and diffuse daylight. Direct sunlight is light from the sun that reaches a site/source without being refracted by clouds, fog, a dense forest or artificial means etc. Diffuse daylight arises when direct sunlight is refracted and scattered naturally, for example, when the sky is overcast by clouds.

³ The earth rotates around the sun, which in the northern hemisphere, results in a daily arc which sees the sun rising in the east, being south at midday and setting in the west.

the present garden experiences as a result of; (1) the close proximity of the side gable of No 1 Grove Road to the existing shared boundary; and (2) because there would be a greater separation distance between the development and the new shared boundary with No 11.

11. The proposed dwelling would have a good standard of outlook from all main habitable rooms aside from the lounge, which only has a high level window and narrow cantilevered side elevation window. However, whilst this would not result in a particularly high standard of living accommodation for future occupiers, I do not consider it to be so harmful as to warrant dismissal of the scheme.
12. In view of the above, I conclude that the development would be harmful to the living conditions of the occupiers of No 1 Grove Road and Nos 7, 9 & 11 Moorland Road. The proposal would therefore conflict with Policy CS12 of the Core Strategy⁴ and Appendix 3 of the Local Plan⁵, which seek, amongst other things, to ensure that development avoids visual intrusion, loss of sunlight & daylight and loss of privacy to surrounding properties.
13. I also find that the scheme conflicts with Paragraph 130 of the Framework⁶ which seeks, amongst other things, to ensure that development creates places with a high standard of amenity for existing users.

Other matters

14. The Council's second reason for refusal states that the application does not provide sufficient information to satisfy it, as the competent authority, that the proposed development will not adversely affect the integrity of the Chilterns Beechwoods Special Area of Conservation (SAC). Although the appellant has offered to provide appropriate mitigation measures by way of unilateral undertaking, I do not have a signed document in the evidence before me and have therefore given this limited weight in my assessment. However, even if this document had been provided, it would not have had any bearing on my final decision as I am in any event dismissing the appeal for other reasons.

Planning balance

15. Although the Core Strategy and Local Plan are over 5 years old, Paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.
16. Policy CS12 of the Core Strategy and Appendix 3 of the Local Plan are broadly consistent with the Framework insofar as they relate to the main issues of the case and I am satisfied that the proposal conflicts with the development plan when taken as a whole.
17. In support of the scheme, the appellant states that the Council has not delivered in terms of its housing requirement. The most recent housing delivery test results reveal that only 87% of Dacorum's housing requirement was delivered with the consequence that it must produce an action plan to address

⁴ Core Strategy 2006-2031, adopted 25 September 2013, Dacorum Borough Council.

⁵ Dacorum Borough Local Plan 1991-2011, adopted 21 April 2004.

⁶ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

this shortfall⁷. However, that document is not in the evidence before me and neither is there any evidence that the Council does not have an up-to-date 5-year housing land supply. In light of this, the scheme does not fall to be considered against the Framework's presumption in favour of sustainable development.

18. Whilst I agree with the appellant that the development would result in an efficient use of land, it would not maintain the setting of residential gardens to neighbouring properties and neither do I consider the site to be underutilised. As a consequence, the development would not accord with Paragraphs 120 and 124 of the Framework.
19. The appellant has referred to a fallback position of permitted development rights for the conversion of offices to dwellinghouses⁸. However, I have not afforded this any weight as it relates to B1(a) office uses, whereas the evidence shows the office in the scheme before me to be ancillary to the primary residential use of the site. However, even if it were a self-contained B1(a) office use, I would have given this limited weight in my assessment as the permitted development right in question; (1) only allows a change of use; and (2) would be subject to a determination as to whether the prior approval of the Council is required. As a consequence, there is no certainty that a scheme would be approved under this route, but even if it were, the resultant dwelling would have a very different and much reduced impact from the appeal scheme before me.
20. I recognise that the scheme would result in benefits from;- (a) an additional dwelling in a sustainable location where the overall amount of dwellings provided has fallen below the local authority requirement; (b) the provision of a 2-bed home for which there is a high local need; (c) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the surrounding area; (d) the creation of an energy efficient dwelling supported by renewable energy and constructed using sustainable construction methods; and (e) local employment during construction. However, given that only one dwelling is proposed, I consider these benefits to be of limited value and that the adverse impacts of the scheme would outweigh these, when assessed against the policies in the development plan and other material considerations.
21. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

Conclusion

22. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR

⁷ 2021 Housing Delivery Test.

⁸ Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).