



Appeal Decision

Site visit made on 12 January 2024

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

an Inspector appointed by the Secretary of State

Decision date: 14th February 2024

Appeal Ref: APP/A1910/D/23/3319252

31 Cemetery Hill, Hemel Hempstead, Hertfordshire, HP1 1JF

- 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 Aimee Hart against the decision of Dacorum Borough Council.
 - The application Ref 23/00139/FHA dated 17 January 2023, was refused by notice dated 21 March 2023.
 - The development proposed is described on the application form as "Single storey front extensions and alterations, part two and part single storey rear extension".
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Decision

1. The appeal is allowed and planning permission is granted for a single storey front extension & alterations and part two/part single storey rear extension at 31 Cemetery Hill, Hemel Hempstead, Hertfordshire, HP1 1JF, in accordance with application Ref 23/00139/FHA dated 17 January 2023, subject to the conditions set out in the attached schedule.

Procedural matter

2. The revised National Planning Policy Framework ('the Framework') was published on 19 December 2023. Having reviewed this document, I am satisfied that the policy applicable to the scheme before me remains unchanged from the previous Framework documents published in 2021¹ and 2023². As a consequence, I did not consider there to be a need to reconsult the parties and have determined the appeal in light of the new Framework document, which is a material consideration that should be taken into account.

Main issues

3. The main issue is the effect of the part two/part single storey rear extension on the living conditions of neighbouring occupiers at No 29 Cemetery Road, with particular regard to visual intrusion and light.

Reasons

4. Cemetery Road slopes down in an easterly direction and is characterised by Victorian terraced/semi-detached houses and post-WWII semi-detached properties. The appeal site contains a dwelling hailing from the latter period and is set back from the vehicular highway.

¹ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

² National Planning Policy Framework, Department for Levelling Up, Housing & Communities, 5 September 2023.

5. The proposed part two/part single storey rear extension ('the rear extension') would be flush with the host property's existing side elevation and project a small distance beyond No 29's single storey rear lounge extension. It would however be set on higher ground than the latter, the consequence of which would be a degree of visual intrusion and loss of outlook from No 29's first floor bedroom windows and ground floor extension rooflights. However, because of;- (1) the scheme's modest rear projection; (2) it being set inside the shared boundary; and (3) the lounge retaining an unfettered outlook from its bifold doors, I would not consider its impact to be significant enough to cause a harmful level of visual intrusion or loss of outlook to the occupants of No 29.
6. Concerns have also been raised by interested parties that the rear extension would appear visually overbearing and intrusive from the private garden of No 29. However, because of;- (1) its roof being set down from the main ridgeline; and (2) its very limited projection beyond the lounge extension to No 29, the scheme would be viewed against the backdrop of the existing dwelling. As a consequence, I am satisfied that any visual impact to the rear garden of No 29 would be limited.
7. The rear extension would result in some loss of diffuse daylight³ to No 29's first floor bedrooms and the lounge at ground floor level. However, the Case Officer report states that the rear extension would pass the 45 degree daylight test on No 29, which indicates that it would not cause a significant reduction in diffuse daylight to these rooms. Having appraised the matter on the ground against the BRE daylight and sunlight guidance⁴, I am minded to agree on the basis that the scheme would appear to pass the 45 degree elevation test on the first floor bedroom windows and the 45 degree plan test on the bifold doors to the lounge, which are the primary source of light to this room (the BRE guidance states that an extension may cause a significant reduction in daylight received by a window if it fails both tests i.e. plan and elevation).
8. There would also be some loss of direct sunlight to No 29's bedroom windows and ground floor extension rooflights from approximately mid-afternoon onwards. However, because these openings are south facing, I am satisfied that their respective rooms would continue to receive a good standard of direct sunlight for a significant part of the day⁵.
9. My attention has been drawn by interested parties to a previous appeal at the site for a 2-storey extension which was dismissed. However, this was materially different in design to the scheme before me and hence the circumstances are not comparable. I have therefore assessed the proposal on its own merits in the light of all the evidence which is now before me.
10. In view of the above, I conclude that the development would not be harmful to the living conditions of the occupiers of No 29 Cemetery Road. The proposal would therefore accord with Policy CS12 of the Core Strategy⁶ which seeks, amongst other things, to ensure that development avoids visual intrusion and loss of sunlight & daylight to surrounding properties.

³ 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.

⁴ Site layout planning for daylight and sunlight; A guide to good practice, BRE (Building Research Establishment), 2022 Edition (this is a revision of the 2011 edition).

⁵ The earth rotates around the sun, which in the northern hemisphere, results in a daily arc that sees the sun rising in the east, being south at midday and setting in the west.

⁶ Core Strategy 2006-2031, adopted 25 September 2013, Dacorum Borough Council.

11. I also find that the scheme accords with Paragraph 135 of the Framework which seeks, amongst other things, to ensure that development creates places with a high standard of amenity for existing users.

Conditions

12. A condition has been imposed to ensure the scheme is carried out in accordance with the approved plans. I have also attached a condition regarding the materials to ensure that the appearance of the development is satisfactory.

Conclusion

13. In view of the above, having had regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Fallon

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved details:- Drawing nos. wren naj 74 2022 (existing block plan, floor plans and elevations); wren naj 03 2023 (proposed block plan, floor plans and elevations); and the location plan.
- 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.

End of Schedule