

4/00028/18/FHA	GLAZED STRUCTURE TO END OF PATIO AND FENCING. ADDITION OF THREE FLUES. INSTALLATION OF EIGHT CCTV CAMERAS. CHANGES TO DESIGN OF REAR CONSERVATORY. BASEMENT EXTENSION TO FORM GYMNASIUM, UTILITY ROOM, CINEMA AND WINE CELLAR WITH ADDITIONAL WINDOWS. ADDITION OF EXTERNAL COVERED BBQ STRUCTURE AND ALTERATIONS TO FENCING.
Site Address	28 SILVERTHORN DRIVE, HEMEL HEMPSTEAD, HP3 8BU
Applicant	MR & MRS ICLEANU
Case Officer	Intan Keen
Referral to Committee	Contrary views of Nash Mills Parish Council and Councillor call-in

1. Recommendation

1.1 That planning permission be delegated with a view to **APPROVAL** subject to the expiration of the notification period and subject to conditions.

2. Summary

2.1 The proposed development would be acceptable in principle and would be satisfactory with respect to the impact on neighbouring properties in terms of visual intrusion, overlooking, loss of light and disturbance which shall be controlled through appropriately worded conditions. The proposed additions and alterations would not have an adverse impact on the appearance of the street scene, and would maintain acceptable levels of parking provision on the site. It follows the proposal would accord with the aims of Policies CS4, CS11 and CS12 of the Dacorum Core Strategy 2013.

3. Site Description

3.1 The application site is currently occupied by a two-storey detached dwelling recently subject to extensions, located on the eastern side of Silverthorn Drive within the residential area of Longdean Park. The street is characterised by large detached dwellings sited on large plots displaying generous spacing between buildings. Levels fall steeply in an easterly direction (towards the site's rear boundary from the street frontage) and also fall slightly north so that the adjacent dwelling at No. 30 is located on lower ground relative to the application site.

4. Proposal

4.1 The application seeks planning permission to regularise the following extensions and alterations to the existing dwelling:

- Covered structure to external bbq area - subject to amended plans enclosing the structure on the nearest boundary;
- Installation of three flues within bbq area;
- Installation of eight CCTV cameras on the main dwelling (three on the front elevation, two on the northern side elevation, one on the southern side elevation and two on the rear elevation);
- Glazing to end of patio and boundary fencing;
- Alterations to fencing;
- Basement (extension to basement approved under below-referenced application 4/00532/14/FHA) incorporating gymnasium, utility room and wine cellar ancillary to the dwelling and external openings;
- Rear conservatory (amendments to the conservatory under previous approval).

5. Relevant Planning History

5.1 This application follows the following approvals:

- Originally application 4/00532/14/FHA for replacement roof including partly raised ridge with two rear dormer windows, rear conservatory, alterations to openings, extension of rear terrace and installation of metal fence and gates to sides of dwelling was granted on 9 May 2014. This planning permission has been implemented and substantially completed at the time of the last site visit;
- Non-material amendment application 4/02626/17/NMA for revised side gates, repositioning of heat pump and revised rear dormer windows was granted on 4 December 2017. This application was made retrospectively and as such these works have largely completed.

6. Policies

6.1 National Policy Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

6.2 Dacorum Core Strategy 2013

Policies NP1, CS1, CS4, CS11, CS12, CS29, CS31, CS35

6.3 Dacorum Borough Local Plan 1991-2011

Saved Policies 13, 58, 99
Saved Appendices 3 and 5

6.4 Supplementary Planning Guidance / Documents

- Environmental Guidelines (May 2004)
- Area Based Policies (May 2004) - Residential Character Area HCA25 Longdean Park

7. Constraints

- Residential area
- CIL Zone 3

8. Representations

Consultation responses

8.1 These are reproduced in full at Appendix A

Neighbour notification/site notice responses

8.2 These are reproduced in full at Appendix B

9. Considerations

Main issues

9.1 The main issues to consider are:

- Policy and principle

- Impact on neighbouring properties
- Impact on appearance of street scene
- Access and parking
- Community Infrastructure Levy (CIL)

Policy and Principle

9.2 The proposal for extensions and alterations associated with an existing dwelling within a designated residential area would be acceptable in principle under Policy CS4 of the Core Strategy.

Impact on neighbouring properties

9.3 It should be noted that an objection has been submitted on behalf of the neighbouring property located due south of the site at No. 26 Silverthorn Drive set out in full below. The various aspects of the proposal are set out below.

Covered barbecue area

A site visit was undertaken from both the application site and the neighbouring property at No. 26 at a time when the covered structure was substantially in place. The covered barbecue structure is located on lower ground, consistent with levels and topography of the immediate area, relative to the lowest windows of the neighbouring dwelling at No. 26. Although located on the boundary for a length of approximately 11.3m, the roof structure whilst visible, would not result in significant levels of visual intrusion from the neighbouring property with an eave height of 2.3m from the nearest point to the neighbour and its hipped roof rising up away from the common boundary. Its location on lower ground together with the substantial dimensions (approximately 27m width and 49m depth) of the rear garden of the neighbouring property, also noting that (lower ground bedroom and ground floor living room) rear-facing windows nearest the shared side boundary are not obscured on their far side by other structures. These conditions on the neighbouring property would provide sufficient visual relief from the covered bbq area proposed.

Concerns relating to noise are covered within comments from Dacorum Environmental and Community Protection below. As such, to address any impacts from the covered barbecue area relating to noise, a condition shall be imposed on any planning permission in line with this advice requiring the floor to ceiling to be completely enclosed along the boundary-side of the structure (shared with No. 26). The condition shall require further details to ensure this has been carried out to a satisfactory standard.

Installation of flues

In accordance with Dacorum Environmental and Community Protection department's advice any planning permission shall include a condition requiring further details to be submitted for approval to address the impact on the nearest neighbouring property with respect to cooking fumes.

CCTV cameras

The following is an extract from a document prepared by the Information Commissioner's Office 'In the picture: A data protection code of practice for surveillance cameras and personal information' Version 1.2:

The use of surveillance systems for limited household purposes can be exempt from the Data Protection Act (DPA) [1998].

The Court of Justice of the European Union (CJEU) issued its judgment in the case of Rynes on 11 December 2014. In this judgment, CJEU concluded that where a fixed surveillance camera faces outwards from an individual's private domestic property and it captures images of individuals beyond the boundaries of their property, particularly where it monitors a public space, the recording cannot be considered as being for a purely personal or household purpose.

This means that cameras attached to a private individual's home may, in certain circumstances, no longer be exempt from the requirements of the DPA under section 36. Those circumstances are likely to include where the camera monitors any area beyond the interior and exterior limits of that individual's home. This would include any camera to the extent that it covered, even partially, a public space such as the pavement or street. It would also cover cameras which captured areas such as neighbours' gardens.

The code of practice does not specify a limitation on the number of cameras installed. The perceived level of impact on neighbouring properties however should be taken into account and it would therefore be reasonable to limit the number of cameras to those shown on the submitted plans.

Additionally, based on the above guidance, it would be necessary to attach a condition requiring cameras to be directed to obtain a view only within the boundaries of the application site.

Fencing and other boundary treatment, and glazing to patio

These elements of the proposal would be acceptable in height terms relative to neighbouring main habitable room windows and would not raise any concerns with respect to visual intrusion, loss of light or overlooking. Whilst glazed panels along certain lengths of the patio are not typical of development in the area, they would not give rise to issues surrounding residential amenity.

Basement extension and rear conservatory

Similarly, these aspects of the development due to their siting and design would not raise concerns with respect to the impact on neighbouring properties noting the majority of openings would be directed to the rear and not within the direct line of sight of main windows of adjoining dwellings.

External lighting

Concerns have been raised with respect to the impact of external lighting installed at the application site. It is noted that the installation of external lighting comes outside of the remit of planning (it does not require permission) and would have little bearing on the consideration of the remaining aspects subject to this application.

It follows that the various elements of the proposal noted above would be satisfactory with respect to the impact on neighbouring properties subject to conditions to mitigate impacts with respect to noise and overlooking in order for the development to accord with the aims of Policy CS12 of the Core Strategy.

Impact on appearance of street scene

As noted above levels on the application site fall from the road frontage to the rear boundary and as such any extensions that would be visible in the street scene would be limited to ground level or lower and would not be unduly prominent in this residential location comprising typically large dwellings. Spacing between dwellings would be appropriately maintained to retain the spacious suburban setting within Longdean Park (HCA25). Proposed fencing would not raise any concerns with respect to the visual amenities of the area. As such, the proposal would accord

with the objectives of Policies CS11 and CS12 of the Core Strategy.

Access and parking

The proposed arrangements would ensure sufficient vehicle access to the site and the forecourt would be of an size that could accommodate up to three car parking spaces in accordance with maximum requirements set out under saved Appendix 5 of the Local Plan. The development would accord with Policies CS8 and CS12 of the Core Strategy and saved Policy 58 of the Local Plan in this regard.

Community Infrastructure Levy (CIL)

The site is located within CIL Zone 3 and if liable would be charged at a rate of £100 per square metre.

10. Conclusions

10.1 Based on the above assessment the proposal would be acceptable and accord with the aims of Policies CS4, CS8, CS11 and CS12 of the Core Strategy and saved Policy 58 of the Local Plan.

11. RECOMMENDATION

11.1 It is recommended that the application is delegated to the Group Manager of Development Management and Planning with a view to approval subject of the expiry of the notification period and subject to conditions below.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 The CCTV installation hereby permitted shall not exceed more than eight cameras within the specified locations on the approved drawings. CCTV cameras shall not be directed to obtain a view other than entirely within the curtilage of the property at No. 28 Silverthorn Drive, Hemel Hempstead as outlined on Drawing Nos. 751 PL/008 (front and side elevations received 30 May 2018) and 751 PL/005 (side and rear elevations received 30 May 2018).**

Reason: In the interests of residential amenity and for the avoidance of doubt in accordance with Policy CS12 of the Dacorum Core Strategy 2013.

- 3 Within a period of six months from the date of this decision, the area labelled 'BBQ Floor Plan' on Drawing No. 563 BR/001 Rev A (ground floor plan and BBQ floor plan received 31 May 2018) shall be fully enclosed from floor to ceiling for its entire length along its southern side, and written confirmation and specifications including detailed elevations and sections (drawn to a metric scale) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained.**

Reason: To reduce noise disturbance from the approved development in order to safeguard residential amenity in accordance with Policy CS12 of the Dacorum Core Strategy 2013.

- 4 **Within six months following the date of this permission, further details on the location and specification of the three flues hereby approved shall be submitted and approved in writing by the local planning authority. The flues shall be installed, fixed or finished in accordance with the approved details prior to any cooking activity within the area labelled 'BBQ Floor Plan' on Drawing No. 563 BR/001 Rev A (ground floor plan and BBQ floor plan received 31 May 2018).**

Reason: To address and mitigate the impact on neighbouring properties from cooking fumes in accordance with Policy CS12 of the Dacorum Core Strategy 2013.

- 5 **The development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

751 PL/006 (site location plan received 5 January 2018)
751 PL/001 (site plan received 30 May 2018)
563 BR/001 Rev A (ground floor plan and BBQ floor plan received 31 May 2018)
563 BR/002 Rev A (basement, first and second floor plan received 25 May 2018)
751 PL/008 (front and southern side elevations received 30 May 2018)
751 PL/005 (northern side and rear elevations received 30 May 2018)
751 PL/005 (site elevations received 25 May 2018)

Reason: For the avoidance of doubt and in the interests of proper planning.

Article 35

Planning permission has been granted for this proposal. The Council acted proactively through positive discussion with the applicant to seek an acceptable solution which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Environmental Health Informative

1). Construction Hours of Working – (Plant & Machinery) Informative

In accordance with the councils adopted criteria, all noisy works associated with site demolition, site preparation and construction works shall be limited to the following hours: 0730hrs to 1830hrs on Monday to Saturdays, no works are permitted at any time on Sundays or bank holidays.

2). Construction/Demolition Dust Informative

Dust from operations on the site should be minimised by spraying with water or by carrying out of other such works that may be necessary to suppress dust. Visual monitoring of dust is to be carried out continuously and Best Practical Means (BPM) should be used at all times. The applicant is advised to consider the control of dust and emissions from construction and demolition Best Practice Guidance, produced in partnership by the Greater London Authority and London Councils.

3). Noise on Construction/Demolition Sites Informative

The attention of the applicant is drawn to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites.

Appendix A - Consultation responses

Dacorum Environmental and Community Protection - Noise

I have reviewed the documentation in relation to the above listed application.

I note that this application is for a retrospective development and as such have concerns about the ability to effectively control what has already been constructed.

In this instance there are concerns in regards to potential levels of noise generated from the use of the new structures specifically the outdoor B.B.Q area.

With the design of the roof/ceiling the opening spaces surrounding may amplify the level of human voice and/or mechanically amplified noise being that of music or equipment and direct towards the neighbouring property at the boundary.

This would give rise to complaints that may be considered a statutory nuisance under the Environmental Protection Act 1990 Section 80.

I would normally request that the proponent demonstrate how this development would not contribute to factors that would cause a nuisance and submit to this department for review, unfortunately this has already been built in this instance and therefore a submission may not be possible.

It is therefore reasonable to request that the open air spaces be enclosed on the boundary facing sides to prevent or limit the impact on the neighbouring property and ensure that the construction material be of a type to effectively mitigate any noise potential. Should this not occur and a statutory nuisance be shown, enforcement action may be taken including forcing the enclosure of that section.

In regards to the flues from the cooking equipment, this also may give rise to a potential nuisance from odour/smoke and therefore details of how this would be limited would normally be requested.

In this instance, again being already constructed, information on type of flue is required to make a proper determination of whether this might occur. If the flues have a filter/scrubber installed, I would need these specifications to make a formal comment, failing this the relocation or installation of flue filters retrospectively could be undertaken.

Again if a statutory nuisance is identified then enforcement action would be taken and this may also be by effectively stopping the use of the equipment until it can be demonstrated that no further nuisance would be occur.

Dacorum Environmental and Community Protection - Contaminated Land

Thanks for contacting the Pollution and Environmental Protection Team in respect of the above planning application 4/00028/18/FHA for the erection of a glazed structure to end of patio and fencing, addition of three flues, installation of three CCTV cameras, changes to design of rear conservatory, basement extension to form gymnasium, utility room, cinema and wine cellar with additional windows, external covered BBQ structure and alterations of fencing and I will like to advise that we have no objection in relation to Air Quality and Contaminated Land on the proposed application.

However, the following planning informative are recommend should planning permission be granted

1). Construction Hours of Working – (Plant & Machinery) Informative

In accordance with the councils adopted criteria, all noisy works associated with site demolition, site preparation and construction works shall be limited to the following hours: 0730hrs to 1830hrs on Monday to Saturdays, no works are permitted at any time on Sundays or bank holidays.

2). Construction/Demolition Dust Informative

Dust from operations on the site should be minimised by spraying with water or by carrying out of other such works that may be necessary to suppress dust. Visual monitoring of dust is to be carried out continuously and Best Practical Means (BPM) should be used at all times. The applicant is advised to consider the control of dust and emissions from construction and demolition Best Practice Guidance, produced in partnership by the Greater London Authority and London Councils.

3). Noise on Construction/Demolition Sites Informative

The attention of the applicant is drawn to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites.

Nash Mills Parish Council

The Planning Committee **object most strongly** to the above application, they state that the application doesn't comply with the DBC Core Strategy (see attached copy of relevant Core Strategy page) as follows:

- CS12 (Quality of Site Design)
 1. (C) - avoid visual intrusion, loss of sunlight and daylight, loss of privacy and disturbance to the surrounding properties.
 2. Respect adjoining properties in terms of (i) layout, (iv) scale, (v) height, (vi) bulk, (vii) materials, (viii) landscaping and amenity space.

Councillor Jan Maddern

Confirmation of call in if minded to approve.

Appendix B - Responses to neighbour notification

Longdean Park Residents Association

Further to our previous objection we would just like to reinforce the point of complete sealing up. We would like to see all glazing removed from the flank elevation, facing No. 26, and then the bricked up. This would provide privacy and sound insulation.

28 Silverthorn Drive

We reside at 26 Silverthorn Drive, have received and reviewed the Planning Application documents for 28 Silverthorn Drive ref 4/000/28/18/FHA and wish to **Strongly Object** to the application on the following grounds:

1. Impact on visual amenity

The external kitchen by its siting on the boundary, height and design represents an unneighbourly form of development that is detrimental to our amenities as occupiers of the adjacent residential property. It sharply contrasts with the natural character of its surroundings and doesn't fit with the scale of outdoor/covered areas of surrounding properties.

2. Loss of privacy and overlooking

The floor level has been raised, this is not shown on plan PL/005 This was originally a lavender garden, two steps down from the adjoining terrace area. The boundary wall has also been raised significantly between our two gardens to over 2 metres at the far end of the external kitchen. Giving the applicant adequate privacy but now overlooking our property, a bedroom and our two terraces so that we can no longer enjoy our amenities. This large external kitchen with large table is almost like a restaurant with a view of our garden.

The "acoustic obscure glass screening" is spaced apart negating any acoustic defence and CCTV overlooking our property.

3. Noise, smell and disturbance from use

Section 79 of the Environment Protection Act 1990 defines Statutory Nuisance as fumes or gases, dust, smell, smoke and noise emitted from premises so as to be prejudicial to health or a nuisance. This also contravenes Dacorum Council's own Core Policy C11 & C12.

With regard to the external kitchen, on 23rd August 2017 your own Environmental Health Officer stated "the roof appears to amplify the noise in this instance and given the size of the plot I would wonder why such a development had been sited right against the boundary with the neighbours? From a purely acoustic point of view a proper additional room would almost have been far better than what has been constructed."

The three flues (two at present are upright and one horizontal) indicate how many people this external kitchen caters for and is operating at all times. It is a residential area, not industrial.

This area was used as an extension of the gym during the summer months with music playing.

The extensive artificial lighting in both front and back of the property is excessive, and is on at all hours of the day and night causing pollution and obtrusive light.

4. Visual Intrusion

Hedging has been taken out and our hedge harshly cut back leaving everything we do on view. The structure and extensive lighting allows it to be used throughout the year and is predominantly used for entertaining at all hours of the day in all weathers. This enables a large number of the applicant's guests to see us, our movements, and lends itself to looking directly into our property and garden. As a result, we have had to inform the police when we are away.

Two wall lights on the Plant Room, their intensity and direction into our family room/kitchen window are a nuisance.

CCTV Camera next to the door of the gym within this kitchen area overlooks our garden and invades our privacy (this is not shown on the plans submitted.)

CCTV Camera on the conservatory overlooks our property (not shown on plans submitted).

CCTV Camera parallel with our family room/kitchen on the Plant Room (not shown on plans submitted).

CCTV Camera on PL/008 to the far right of the house looks over our property. These are fish eye cameras and have wide angled lenses.

We have informed the Police of these cameras but again expected these to be dealt with as explained by your enforcement officer, Ramesh Depala. These cameras are a breach of our personal space. They are not allowed to view our property or us and we believe contravene

our rights under the Data Protection Act.

5. Design

We would once again like to draw your attention to the Environmental Health Officer's comments that state "the roof appears to amplify the noise in this instance and given the size of the plot I would wonder why such a development had been sited right against the boundary with the neighbours? From a purely acoustic point of view a proper additional room would almost have been far better than what has been constructed".

The "BBQ floor plan" as shown on plan BR/001 identifies the wall as constructed on the boundary between no's 28 & 26 as already existing. This is incorrect, this has been constructed as part of the "covered BBQ and patio area" This wall is not shown on plan BR/002 and forms part of the external kitchen. This external kitchen covers the area from the wine cellar, parallel with the side entrance to the gymnasium and beyond, this is not shown on plan BR/002 and is misleading.

It sharply contrasts with the natural character of its surroundings. The house and grounds are already sufficiently large to allow enjoyment and privacy between neighbours whilst leaving sufficient space between properties.

In addition to our objections we would like to add the following concerns:

1. These additional works which are being proposed did not commence in 2014, they began much later.
2. In a period of 11 months there have now been 3 planning applications for the same disputed works carried out without the correct planning permission including a Retrospective Planning Application submitted as 'a consequence of Enforcement Notice ref: E/17/00112' for 'Regularisation of Complete Works' subsequently withdrawn a week after submitting a Non Material Amendment for heat pump, dormer windows and brick pillar/wall over 2 metres, on October 17, some 3 months after your decision date.
3. These latest supporting documents are and have been inconsistent and inaccurate throughout and poorly presented that they are misleading and difficult to interpret to the layman. There are no existing plans shown to compare the property prior to and after the works carried out and no existing elevation plans submitted.
4. The proposal indicates - a householder planning application but these substantial proposals have already been carried out hence the Retrospective Planning Application back in May 2017 for regularisation of complete works, admittedly inaccurate but subsequently withdrawn. Our understanding was that a Retrospective Planning Application was the way forward considering the numerous breaches or an Enforcement Notice.
5. The proposal does not make clear the following:
 - i. Which glazed structures to end of patio or fencing is being referred to? There is no mention of the "acoustic obscure glass" on the boundary and with its inclusion raises the height to over 2m.
 - ii. There is no mention of the boundary wall constructed between Nos. 28 & 30 Silverthorn Drive which exceeds 2m in height.
 - iii. The addition of three flues – are these in the external kitchen?
 - iv. Installation of 3 CCTV cameras – as there are 10 on ground floor level, 1 of which covers a

360 degree circumference and 2 of which are not shown on the plans, and 4 on lower level (now referred to as basement level) – 1 of which is not shown on the plans it is again inconceivable to know which 3 are being referred to.

v. Changes to design of rear conservatory, we have to assume this refers to overall size and/or materials.

vi. Basement extension to form gymnasium, utility room, cinema and wine cellar with additional windows? This is not a basement extension – this is a complete new basement.

vii. The wine cellar is a separate entity at the back of the external kitchen/BBQ area.

viii. Alteration to fencing is too ambiguous.

Given the applicant's complete disregard for the planning process and their continual changes to the design (which are still on-going) we do not believe that these plans will reflect the building when it is eventually finished, and we are concerned that even more regulations will be flouted.