
Appeal Decision

Site visit made on 12 March 2025

by **L Gardner MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 MARCH 2025

Appeal Ref: APP/X1925/W/24/3349853

204 Whitehill Road, Hitchin, Hertfordshire SG4 9JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Brid Kelly against the decision of North Herts Council.
 - The application Ref is 24/00763/FP.
 - The development proposed is build a new house and demolish a garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published and corrected on 7 February 2025. The main parties were provided with an opportunity to comment. I have had regard to the 2024 version of the Framework in my decision.
3. The Council have confirmed the plans which were the basis for their decision and have provided copies where requested. The relevant plans are as follows, existing site layout (23/05/01), site layout proposed (23/05/02a), floor plans and elevations (23/05/03), street elevation (23/05/04) and location plan (23/05/05).
4. During the appeal, the appellant has referred to later revisions of the site layout, elevations and street elevation which show differences to the dwelling design, including a revised roof style. The amendments represent a material difference to the design of the proposal. I have therefore assessed the proposal in line with the plans on which the Council determined the application. To do otherwise would prejudice the interests of the Council, interested third parties and consultees, who have not been consulted on the revised scheme and who may have observations to make.

Main Issues

5. The main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - the living conditions of the occupiers of 204 and 206 Whitehill Road, with particular regard to outlook and privacy; and
 - highway and pedestrian safety on Oakfield Avenue.

Reasons

Character and appearance

6. The appeal site fronts Oakfield Avenue and forms part of the residential garden serving the adjacent host dwelling, 204 Whitehill Road. It features an existing single storey garage with a low mono roof pitch, and an area of hardstanding in front served by a dropped kerb. There is a modest gradient within the site with the garage sitting slightly below the highway.
7. The site is within a primarily residential area formed of a mix of single storey and two storey dwellings. Typically, the dwellings along Oakfield Avenue are semi-detached with consistencies in materials, design, length of gardens, and position of building lines. Nevertheless, there are variations in design within the wider area including dwellings with roof dormers and the use of render. The street scene at Oakfield Avenue is characterised by relatively low boundary treatments of low walls and hedges with a narrow grassed verge along Oakfield Avenue. The boundaries closest to the junction at Whitehill Road (including part of the frontage of the appeal site) vary from this established character being formed by timber fences with hedges behind. Tall tree specimens also feature closer to the junction.
8. The proposal seeks to introduce a separate residential plot for a two-storey dwelling of a chalet bungalow style, with two roof dormers on the principal elevation. The dwelling would front Oakfield Avenue with an area of hardstanding intended for the parking of vehicles, and placement of bins to the front.
9. The plot size would be significantly smaller than the surrounding development and as a result, would be at odds with the established character of the area which features more spacious plots. The appellant contends that the higher density of the plot represents a better use of the land referring to Planning Practice Guidance 3. This document has been replaced by the Framework which still promotes the use of small sites and underused land. However, it is not considered that the plot density proposed is appropriate to the context of the site. The impact of the plot size is evident in the depth of the rear garden which would be overly modest compared to the long rear gardens typical in the area.
10. Overall, the plot would be cramped within the street scene to a degree that it would be harmful to the character and appearance of the area. The proposal is therefore contrary to Policies SP9 and D1 of the North Hertfordshire Local Plan (NHLP) (2011-2031) which, amongst other matters, seek proposals that respond positively to their local context.

Living conditions

11. The proposed dwelling would be positioned between existing residential curtilages. The Council have raised concerns specifically in respect to the impacts on 204 and 206 Whitehill Road, the former being the host dwelling.
12. Although the dwelling would be two stories, the first floor would be served at the rear solely by roof lights, which the appellant acknowledges could be obscurely glazed. The dwelling would be perpendicular to no 206 and therefore any outlook from these windows would be primarily towards the rear garden rather than the dwelling itself. Nevertheless, given the number and size of the roof windows, their presence would be prominent when viewed from the neighbouring garden. The

proposed dwelling would be adjacent to almost the entire length of the neighbouring garden and therefore the occupiers of no 206 would feel little respite from the impact of the development. Given the ability to condition that the windows be obscurely glazed, I agree it would be a perception of overlooking rather than direct overlooking, but this would still be materially harmful to the living conditions of the occupiers of no 206 when using their rear garden.

13. The appellant states that the development cannot be overbearing by definition given that it would be at a lower height than neighbouring dwellings. However, irrespective of the proposal's comparative height to its neighbours, the proposal represents a two-storey dwelling in close proximity to neighbouring properties. Whilst the dwelling would be broadly in line with the gable at no 2 Oakfield Avenue, it would be perpendicular to the dwellings on Whitehill Road.
14. The occupiers of no 204 would have a significant proportion of their rear outlook dominated by the presence of the proposed dwelling. The distance between the host dwelling and the proposed dwelling would be insufficient to mitigate the impacts of the proposal causing material harm to the living conditions of no 204 in respect to their outlook.
15. The separation distance to no 206 would be greater, and again the main impact of the proposal would be to the rear garden rather than the dwelling itself, due to the built form positioning. The chalet bungalow design of the dwelling would mean that the main bulk and height of the proposed dwelling would be even further from the shared boundary with no 206. On this basis, I do not consider that the proposal would impose an overbearing impact to the occupiers of no 206.
16. Overall, the development would have a harmful impact on the living conditions of the occupiers of 204 and 206 Whitehill Road in respect to outlook and privacy. The proposal is therefore contrary to Policy D3 of the NHLP which, amongst other matters, seek to protect living conditions of existing development. Whilst I note that the reason for refusal also refers to Policy D1 of the NHLP, this does not explicitly refer to living conditions and therefore I find no conflict with Policy D1 in this respect.

Highway safety

17. The plan submitted for consideration shows space for the parking of two vehicles to the front of the proposed dwelling. These would be accessed from Oakfield Avenue. The appellant states that a vehicle can enter the property in a forward gear and leave in the same way. However, this has not been demonstrated through swept path diagrams and therefore I have given little weight to this statement.
18. Notwithstanding this, it is material that this part of the site is already used for the parking of vehicles for the host dwelling in front of an existing garage. It was clear from my observations on site that it would be difficult for vehicles to turn in front of the garage in the existing circumstances. I therefore do not consider that the proposed arrangement would be materially worse.
19. I have had regard to Hertfordshire's Local Transport Plan (2018), and more specifically Policy T1 of the NHLP which seeks to ensure development will not lead to highway safety problems. I do not consider that the development would lead to an unacceptable impact on highway and pedestrian safety on Oakfield Avenue.

Nevertheless, a lack of harm in respect to this main issue does not overcome the harm identified in respect to character and appearance and living conditions.

Other Matters

20. The appellant's statement makes reference to the presumption in favour of building on previously developed land. However, the glossary of the Framework is clear that this definition excludes land in built-up areas such as residential gardens. This policy presumption therefore holds very little weight in the appeal scheme for consideration before me.
21. Reference has been made to two other residential developments that have been granted planning permission at a similar density to the proposal. As I have not been provided with the details of those sites or the developments permitted, I cannot be sure that they are comparable to the proposal before me or its surroundings. As such I have afforded these examples very little weight.
22. It is noted that the intention of the proposal is to provide housing for an elderly resident and that energy efficiency would be incorporated into the construction. The proposal would also provide an additional dwelling in a sustainable location. Whilst these represent economic and social benefits of the proposal, in the context of a single dwelling, the benefits are modest and not sufficient to outweigh the harm that I have identified in respect to character and appearance and living conditions.

Conclusion

23. Whilst I have found no harm in relation to highway safety, neither this or the benefits of the proposal outlined above, outweigh the overall harm in respect to the character and appearance of the area and living conditions of neighbouring properties. This brings the scheme into conflict with the development plan and material considerations do not indicate a decision otherwise than in accordance with it. I therefore conclude that the appeal should be dismissed.

L Gardner

INSPECTOR