
Appeal Decision

Site visit made on 22 April 2025

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2025

Appeal Ref: APP/X1925/W/24/3355885

51 Beech Way, Blackmore End, Hertfordshire AL4 8LY

- 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 Mr Neil Tennant against the decision of North Herts Council.
 - The application Ref is 24/00797/FP.
 - The development proposed is erection of 1no. dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development and site address above from the application form. Although different to that given on the decision notice, no confirmation has been provided that a change was agreed.
3. The appeal submission has been accompanied by two additional documents which were not considered by the Council in reaching their decision. These documents include a Daylight and Sunlight analysis and site section drawing. This represents the submission of new information that neither the Council nor interested parties may have had the opportunity to comment on.
4. The Planning Inspectorate Appeals' Procedure Guide makes it clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the Council and interested parties. I have not therefore considered this new information in this appeal as it would prejudice the Council and any interested parties. If an appellant thinks that amending their application will overcome the Council's reasons for refusal, they should normally make a new planning application.

Main Issues

5. Whilst not stated in the reasons for refusal, it is clear from the Officer's Report that the Council considered that, due to the proximity to the boundary of 1 The Drive (No 1), future occupiers of the dwelling would feel enclosed with limited light reaching the rear rooms. The appellant has sought to address these concerns within their statement of case.
6. Based on the above, the main issues of the appeal are the effect of the proposed development on:
 - the character and appearance of the area, including protected trees;

- the effect of the proposal on the living conditions of the occupiers of No 1, with particular regard to outlook and light; and,
- whether the proposal would provide satisfactory living conditions for the future occupiers.

Reasons

Character and appearance

7. The appeal site is within a residential area with a verdant character formed by landscaped gardens and mature trees. Local housing is a variety of styles and types, but predominantly consists of single and two-storey detached and semi-detached properties. Many of these dwellings are arranged in cul-de-sacs located off routes taken from Kimpton Road and are set back from the road by front gardens and driveways.
8. The appeal site is a corner plot at the junction with Kimpton Road. It consists of the side garden of the host property and includes a hedge and fence along part of its frontage. It also contains several tall trees covered by a Tree Preservation Order (TPO) close to the junction. The opposite side of Kimpton Road comprises a boundary of mature trees and hedging with fields beyond. The TPO trees on site and those nearby result in a pleasant, verdant appearance to the immediate area on the edge of the village.
9. Future occupiers would be aware of the position of the trees and that the canopies are quite high. However, the implications of living next to them could not be fully appreciated until occupation. During my mid-morning site visit, which is only a snapshot in time, I observed that much of the proposed garden area was in the shade of these protected trees. Moreover, their position would result in a limited open area of usable garden space.
10. This shade and lack of open space would raise undue pressure in the future for works to the tree canopies for additional light or potential removal of trees. Although works to protected trees would be subject to consent from the Council, given the potential effect on the living conditions of future residents such works would be difficult to resist. In turn, this may lead to significant works to the trees, with subsequent harm to the contribution that these trees make to the character and appearance of the area.
11. Many dwellings in the surrounding cul-de-sacs share a back-to-back relationship. In contrast, the host dwelling is angled towards the road such that its rear boundaries are sited close to the rear gardens of properties on Beech Way and The Drive. The proposed dwelling would have a similar short distance to the rear boundary, following this pattern of development. The driveway would be somewhat short in comparison to some nearby properties. Still, there remains space for parking and soft landscaping, ensuring the development could assimilate with the pattern of built form found in the vicinity, thereby avoiding an overly urban form of development.
12. However, given the height and proximity between the proposed dwelling and TPOs the separation distance would be limited. As such, when viewed from the surrounding area, the dwelling would appear unduly cramped within the plot, given the surrounding constraints.

13. For these reasons, the proposed development would cause unacceptable harm to the character and appearance of the area. Consequently, the proposal would conflict with Policies SP9 and D1 of the North Hertfordshire Local Plan (LP). These seek with respect to this issue, for development to be well designed by responding to local context.

Living Conditions – Existing Occupiers

14. Given the separation distance between the development and No 1 the main impact of the proposal would be to the rear garden rather than the dwelling itself. This would match the findings of the Council.
15. No 1 benefits from a well sized garden given the large plot on which it is located. The rear garden is expansive with landscaped areas close to the boundaries. The existing layout of No 1 is such that rear doors and a conservatory open out onto the rear garden area closest to the position of the proposed dwelling. It is likely, therefore, to be a primary external space used by occupants of that property.
16. The proposed chalet-style dwelling would have a pitched roof incorporating two rear dormers to serve an en-suite and bathroom. Given the distance from the boundary and size of the roof dormers, their presence would be prominent when viewed from the neighbouring garden at No 1. Whilst existing trees and boundary treatments may provide some screening this would not be year-round or thoroughly screen the roof dormers.
17. The proposed dwelling would be adjacent to a significant proportion of the neighbouring garden and therefore the occupiers of No 1 would feel little respite from the impact of the development. Given the ability to condition that the windows be obscurely glazed, 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 1 when using their rear garden.
18. At present, occupiers of No 1 enjoy somewhat open views out over the appeal site even when taking existing boundary treatments and trees into consideration. The chalet style design of the dwelling would mean that the main bulk and height of the proposed dwelling would be set away from the shared boundary with No 1. However, as the separation distance to the boundary of No 1 is limited, a dwelling in this location would appear as a dominant feature, which would have an overbearing effect on the outlook from a large proportion of the rear garden of No 1. Additionally, the proposed development would likely give rise to a degree of overshadowing with consequent loss of daylight and sunlight to this area of the garden, which is already impinged by the TPOs on the appeal site.
19. For the reasons set out above, the proposed development would result in unacceptable harm to the living conditions of neighbouring occupiers at No 01. It would fail to accord with Policy D3 of the LP. This requires proposals not to cause unacceptable harm to living conditions of nearby occupiers.

Living Conditions - Future Occupiers

20. The proposed dwelling would have one window serving the lounge and one window serving the kitchen area of the kitchen/dining area. From the proposed elevations and my observations onsite, the outlook from the kitchen/dining area would be acceptable given that this room would be served by a large second

window and a set of glazed doors allowing for a sufficient level of natural light and outlook from within this room. However, the existing rear boundary treatment would severely restrict outlook from the only window serving the lounge area. Moreover, occupiers of No 1 may seek to erect additional boundary treatment, further limiting outlook from within this room.

21. Given the proximity of the lounge window to the rear boundary and the existing boundary treatments, it is unlikely that sufficient daylight and sunlight would enter this main living space. Technical evidence, such as a daylight and sunlight assessment, has not been submitted to demonstrate otherwise. Therefore, the proposed development would not provide a suitable living environment for future occupiers with regard to outlook and light.
22. I note the appellant's view that a set of glass sliding doors to the lounge could be provided from the office. However, this is not shown in the drawings, and I have assessed the scheme before me as it was submitted and for which permission is sought.
23. Consequently, the proposed development would not provide a suitable living environment for future occupiers with regard to outlook and light. Therefore, the proposal would conflict with LP Policy D3 which requires proposals do not cause unacceptable harm to living conditions. I note that the second reason for refusal also refers to Policy D1 of the LP. This does not explicitly refer to living conditions and therefore I find no conflict with Policy D1 in this respect.

Other Matters

24. A lack of objection from consultees weighs neither for nor against the scheme. The development would still offer potential benefits in providing one new dwelling to the Council's housing stock in the form of a self-build dwelling. It would also have economic benefits through employment opportunities during the construction phase of the development, as well as spending in the local area by future occupants. I have attached some weight to these factors. However, I have not been provided with any evidence to demonstrate there is an unmet need for self-build dwellings, and given the small scale of the development, the weight attributable to these matters is limited and is not sufficient to outweigh the harms that I have identified and the conflict with the policies I have referred to.
25. Regarding other issues raised, constraints imposed by a restrictive covenant are for the appellant to address separately and are not matters for this appeal.

Conclusion

26. The proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, I conclude the appeal should be dismissed.

A Hickey

INSPECTOR