



Appeal Decision

Site visit made on 29 October 2019

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th December 2019

Appeal Ref: APP/W1905/W/19/3234817

1 Cranleigh Close, Cheshunt, Hertfordshire EN7 6HH

- 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 Mrs Michelle Clack against the decision of Broxbourne Borough Council.
 - The application Ref 07/19/0107/F, dated 5 February 2019, was refused by notice dated 2 April 2019.
 - The development proposed is described as 'the retrospective change of use of amenity land to residential garden including the erection of a 6ft fence (resubmission of 07/18/1015/F)'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal proposal follows a similar application at the site Ref. 07/18/1015/F. However, this scheme was not granted by the Council. It is therefore inappropriate to describe the appeal proposal as an amendment to this previous scheme as shown within the submitted application form. The Council has determined this proposal on the basis that it is a 'retrospective change of use of amenity land to residential garden including the erection of a 6ft fence (resubmission of 07/18/1015/F)'. Given I saw on site that this development has indeed been carried out, I have used this description within my formal decision and have determined the appeal on this basis.
3. Two alternative options for the proposal were submitted with the appeal that show various reductions to the existing fence. However, it is not clear as to whether or not these schemes were provided to the Council and I cannot be certain that they were consulted on. I also note that the 'Procedural Guide – Planning Appeals – England' (2016) advises that: *"If an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application"* (Annexe M.1.1). In these circumstances, I do not consider it appropriate to accept these alternative options.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. No 1 is a two storey, end of terrace, property located within a sizeable residential estate. The amenity land referred to in the description of the proposal comprises a fairly narrow strip which runs between the back of the footway and along the flank elevation of No 1 and the side of its rear garden. The proposal also concerns another section of amenity land positioned beyond the rear garden of No 1. This is identified as 'newly acquired land' on submitted plans and is adjacent to a public footpath which runs along the rear of properties at Cranleigh Close. In my view, this particular section of amenity land is an integral part of the design of the estate and contributes positively to the pleasant, open, feel of the public footpath.
6. All of the above mentioned amenity space is now within the ownership of the appellant and has been enclosed by fencing to form part of the side/rear garden at No 1. This scheme seeks retrospective permission to formally use this land as residential garden and for the construction of a two metre fence which runs along the side of the appeal property. In addition, it would appear that the original boundary treatment at the back of the rear garden would be reinstated and a gate would be incorporated to provide access to the section of 'newly acquired land' beyond it. This land would then be enclosed by a one metre fence.
7. Whilst the loss of amenity space to the side of No 1 has impacted upon the openness of the estate, this has only been to a limited degree. In addition, there are several other examples of visually prominent fencing which abuts the back edge of footways in the immediate area. Such fencing is of a similar scale and material to that at the appeal site. Consequently, on balance, I consider that the enclosure of the narrow amenity strip to the side of No 1 with a two metre fence has not significantly disrupted the character of the streetscene. This element of the scheme is therefore acceptable.
8. Nevertheless, not only has the enclosure of the 'newly acquired land' significantly reduced the open feel of the adjacent footpath, but it has also harmed its pleasant verdant nature. This has been to the considerable detriment of the planned layout of the estate. In my view, this harmful impact would not be sufficiently mitigated were this section of amenity land enclosed by a one metre fence. Neither do I have any evidence to show that such a fence could be constructed under the provisions of the permitted development regulations.
9. I appreciate that the section of public footpath to the rear of No 1 is relatively wide and that the grassed areas to its side have become rather unkempt. Nonetheless, taking the above into account, I am not persuaded that the enclosure of the 'newly acquired land' with any fencing would function well or add to the quality of the footpath. On the contrary, it would introduce a conspicuous and harmful urban feature to a part of the estate which contributes positively to the local townscape.
10. I note that the appellant states that the proposal is required to increase security and safety at the site for her young child. However, I have no evidence to show that this could not be achieved through a scheme which would be less harmful to the character of the area. This, therefore, attracts only limited weight in my assessment. Furthermore, I accept that the proposal would not

harm wildlife. However, this is a requirement of the development plan and does not diminish the proposal's harmful impact on the layout of the estate.

11. For the reasons given, I conclude that the proposal would harm the character and appearance of the area. It would therefore conflict with Policies HD16 and HD21 of the Borough of Broxbourne Local Plan Second Review. Amongst other things, these seek to ensure that proposals are of a high standard of design, relate to the local area and resist the development of open spaces which contribute to the character of the area by providing an important visual break or by being part of a chain of open areas throughout the built up area.

Other Matter

12. I have been referred to policies within the emerging Broxbourne Local Plan. However, no material has been supplied regarding the status of any unresolved objections to them. On the evidence before me, I therefore afford these emerging policies only limited weight. In any event, as I have found conflict with the policies of the Council's adopted development plan, this has not been determinative in my assessment.

Conclusion

13. For the reasons given, the proposal would conflict with the development plan and there are no material considerations which outweigh this conflict. I therefore conclude that the appeal should be dismissed.

M Heron

INSPECTOR