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# Appeal Decision

Site visit made on 3 May 2022

**by Mark Philpott BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6<sup>th</sup> May 2022**

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**Appeal Ref: APP/W1905/W/21/3283931**

**124 Beechfield, Hoddesdon EN11 9QN**

- 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 Mr Darren Reilly against the decision of Broxbourne Borough Council.
  - The application Ref 07/21/0727/F, dated 7 June 2021, was refused by notice dated 6 August 2021.
  - The development proposed is described as 'the proposed development is to reposition the existing side boundary of no. 124 Beechfield, in order to provide more private amenity space'.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The description in the heading above has been taken from the planning application form. The development has commenced and planning permission is therefore sought retrospectively.
3. The site relates primarily to a residential property at 124 Beechfield. A low rendered wall and close boarded fencing have been installed between No 124 and the Beechfield footway on 'amenity land', as described by the Council. This has resulted in the front driveway and rear garden of the property being widened. The application was considered on the basis that the development includes the residential use of the part of the land that has become driveway and garden, together with the erection of the wall and fencing. I shall determine the appeal on the same basis.

## Main Issue

4. The main issue is the effect of the development on the provision of amenity space in the local area.

## Reasons

5. Policy ORC3 of The Broxbourne Local Plan (LP) states that there will be a presumption against the loss of amenity space unless that space no longer provides an amenity to the local area or a visual break within the local area.
6. The site is within a residential estate that features many similar properties to No 124, albeit the materials used for its external finish appear to have been recently altered. An area of grassed land is located beside the aforementioned wall and fencing. Similar areas of grassed land are commonly and prominently

located between the side boundaries of properties and roads in the vicinity of the site.

7. The grassed area beside the site and those elsewhere in the locality give the estate an open and spacious character and provide a sense of separation between properties. As such, the grassed areas provide visual breaks between properties and contribute positively to the character and appearance of the area. The visual break that the grassed area beside the site provides is between the wall, fencing and dwelling at No 124 and the side elevation of a seemingly extended end of terrace property directly adjacent to a footway on the other side of the Beechfield highway. The grassed areas have amenity value because of their positive contribution to the locality.
8. The appellant's supporting statement refers to the land subject to the development as amenity land, and the application form states that it 'has always been grass verge for public use'. Precise details about the condition of that land prior to the development have not been provided, but the appellant has stated that the previous occupier of No 124 planted bushes and flowers there as if it were part of their front garden. Based on the evidence before me, I have no compelling reasons to doubt that it was similar to the grassed land that remains beside the footway.
9. Having regard to the parties' submissions and my above observations, I consider that the land subject to the development constituted amenity land for the purposes of LP Policy ORC3. The evidence also indicates that the remaining grassed area beside the wall and fencing is amenity land for the purposes of the policy. Furthermore, it is undisputed that the areas of grassed land between properties and roads elsewhere in the vicinity constitute amenity land.
10. It has not been advanced that the amenity land subject to the development did not provide amenity or a visual break within the local area. Moreover, whilst the land that remains contributes to amenity and provides a visual break between properties, it does so modestly due to its limited width. The prominence of the amenity land and the sense of separation it provided has been reduced by its narrowing. The development has thus harmed the contribution that the land made to local amenity and the visual break. The planting of trees or vegetation would not counterbalance the loss of the amenity land, as it would still be limited in width and of lesser amenity value.
11. Additionally, there are many opportunities across the estate for similar development to take place. The appellant has indicated that the boundaries of other properties have moved, but those properties have not been identified, nor has it been stated whether permission was required or granted in those cases. On the basis of the information before me, allowing the appeal would set a precedent for equivalent proposals which cumulatively would result in substantial harm to local amenity and erode visual breaks in the area.
12. The development has therefore resulted in a harmful loss of amenity space in the local area, and conflicts with LP Policy ORC3.

### **Other Matters**

13. There is no express agreement between the main parties regarding who owns the land subject to the development. However, ownership issues are private

matters not within my jurisdiction, and have not had any bearing on my assessment of the planning issues in this appeal.

14. The appellant contends that the highway near to No 124 is dangerous because of on-street parking in the vicinity. It is put forward that the development enables more vehicles to park on the driveway and that this alleviates parking on-street. However, the highway layout and parking arrangements appear typical of many residential estates, and firm and substantive evidence indicating that there are highway safety issues in the area has not been provided. Furthermore, the increase in parking within the site has little effect on the occupiers and visitors of other properties parking vehicles on-street. Accordingly, these matters do not outweigh the loss of the amenity land.
15. The appellant contends that prior to the development the amenity land was damaging their driveway. I have no reason to doubt this, but there is nothing before me which suggests that the development was the only means of resolving that issue. It has also been put forward that dog walkers let their dogs foul on the amenity land. However, there is little indicating that this is or was a frequent occurrence, or that the development has resulted in any significant changes in behaviour. As such, these matters do not outweigh the harm identified. Although local residents have not objected, there is nonetheless conflict with the development plan for the reasons set out above.
16. The appellant has suggested that the fencing could be moved back to its original position. However, I have determined the appeal on the basis that the development is retrospective and includes the fencing in its current position. To do otherwise would be to consider the development on a significantly different basis to the Council, which could be prejudicial to their views and the views of interested parties. If the appellant wishes to propose an alternate scheme, a separate application could be made to the Council for that development as necessary.

## **Conclusion**

17. I consider that the development conflicts with the development plan as a whole. Material considerations do not outweigh the development's conflict with the development plan. Therefore, the appeal should be dismissed.

*Mark Philpott*

INSPECTOR