



Appeal Decision

Site visit made on 26 July 2022

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2022

Appeal Ref: APP/W1850/W/21/3289157

12 Grasmere Close, Hereford HR4 0LR

- 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 Natalie Morris against the decision of Herefordshire Council.
 - The application Ref 210553, dated 10 February 2021, was refused by notice dated 27 September 2021.
 - The development proposed is described as 'We have acquired a piece of land up the side of our property from the land owner. We have it under licence and are in agreement to purchase at a later date. We intend to use the land as extra garden space. We have erected a 6ft fence in agreement with the land owners. We would like to apply for planning permission for change of use from unused grass area to enclosed garden. We also seek planning for the 6ft fence adjacent to the path at the front of the proposed garden.'
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from grass area to enclosed garden and a 6ft fence adjacent to the path at the front of the proposed garden at 12 Grasmere Close, Hereford HR4 0LR in accordance with the terms of the application, Ref 210553, dated 10 February 2021, and the plans submitted with it.

Preliminary Matters

2. I have amended the description of development in the decision above from that set out in the last bullet point of the heading which has been taken from the planning application form. The amended description leaves out wording that is unnecessary to describe the development.
3. The garden extension has been carried out and the fence erected. I am therefore considering this appeal retrospectively.

Main Issue

4. The main issue is the effect of the development on the provision of public open space in the area.

Reasons

5. The garden extension encroaches into a linear area of green, public open space (POS) that extends from Yazor Road and joins a much larger area of POS following the Yazor Brook.
6. Policy OS3 of the Herefordshire Local Plan Core Strategy 2011-2031 (CS) aims to ensure that the quantity and quality of open space, sports and recreation

facilities meets the needs of the community over the plan period. It sets out several principles to be taken into account including that there is clear evidence that its loss results in an equally beneficial replacement or enhanced existing facility for the local community.

7. The encroachment results in the narrowing of a short stretch of the linear green space but not to the extent where an unacceptable thinning out, isolation or fragmentation of green infrastructure would arise. As the amount of the POS that is lost is a small fraction of the overall, extensive area, such loss is not especially noticeable, particularly as it is sited behind a line of trees. The enjoyment of users of the space for activities such as dog walking and safe play would not be materially diminished.
8. No evidence has been presented by the appellant that the POS lost to the proposal is surplus to the applicable quantitative standard as required by Policy OS3. Nonetheless, from my observations I consider that ample, good quality, POS remains ensuring that the viability, functionality and useability of the open space is not adversely affected by the development.
9. Despite this, the development does not result in the loss of an open space in its entirety. Nonetheless, some loss arises. In the absence of replacement or enhancement of the existing facility to the benefit of the wider community the proposal therefore conflicts with Policy OS3 of the CS. For the reasons given the harm would be small.

Planning Balance

10. The appellant and interested parties have referred to nuisance from activity within the POS, such as gatherings and dog walking and dog excrement. The repositioning of the boundary fence deflects activity away from the property at No 12 and, to a lesser extent, from the property to the rear on Keswick Close. This has a positive effect on the living conditions of the occupants of such properties by moving the activity further away from the dwellings thereby reducing the nuisance. This enhances the facility albeit benefiting only a small part of the local community. Nonetheless, this amounts to a benefit that greatly weighs in favour of the development.
11. A larger garden provides benefits for the appellant's family. In addition, as raised by an interested party, the associated increase in garden habitat is beneficial to wildlife such as bees and other pollinating insects. These factors add moderate weight in favour of the development.

Conclusion

12. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004.
13. Overall, whilst the proposal would conflict with the development plan, which carries substantial weight in the decision, the benefits that I have identified would outweigh the harm arising from such conflict. Based on the individual merits of the scheme, the material considerations indicate that planning permission should be granted, therefore.

14. For the reasons given above I conclude that the appeal should be allowed. The development has already been carried out and I consider that no conditions are necessary.

Elaine Moulton

INSPECTOR