



Appeal Decision

Site visit made on 19 April 2023

by J N Seymour BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2023

Appeal Ref: APP/W1905/W/22/3303350

104 Perrysfield Road, Cheshunt, Hertfordshire, EN8 0TN

- 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 Julie Sanelli against the decision of Broxbourne Borough Council.
 - The application Ref: 07/22/0338/F, dated 22 March 2022, was refused by notice dated 30 May 2022.
 - The development is described as 'Retrospective application for the change of use from amenity land to residential garden.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the application form is as follows: "*change of use to residential garden*". However, I have chosen the description used by the Council on their decision notice as it is more detailed, and it importantly includes the fact planning permission is being sought retrospectively.

Main Issue

3. The effect of the proposed development on the character and appearance of the area.

Reasons

4. The development that has been carried out involved the removal of a brick boundary wall, a tree and hedgerow adjacent to the pavement on Perrysfield Road to facilitate an enlargement of the garden of the appellant's property. The newly created amenity space has then been enclosed by fencing constructed of timber panels with a concrete base and posts. Similar fencing, albeit lower in height, has also been erected to enclose the existing front garden of the property.
5. Policy DSC1 of the Broxbourne Local Plan states the Council expects a high standard of design for all development and, amongst other things, it states that development proposals must avoid the creation of blank walls on public fronted elevations. There was originally a brick boundary wall delineating the side boundary of the property, but this hard landscaping was softened by the presence of the tree and hedgerow in front of it. This soft landscaping technique is repeated in the surrounding area, and it continues to perform its role of avoiding hard edges to many other properties on Perrysfield Road.

6. The removal of the soft landscaping would have revealed the brick wall which has been demolished and replaced with fencing positioned further forward into the street scene. This has created a blank wall on a public fronted elevation which is in direct conflict with criterion I.(i) of Local Plan Policy DSC1.
7. Policy ORC3 of the Local Plan states that there will be a presumption against the loss of amenity spaces unless that space no longer provides an amenity to the local area and/or a visual break within the local area. The appeal site did not perform a function as a usable amenity space, but before their removal, the historic photographs provided showed the tree and hedgerow made a positive contribution to the character and appearance of the street scene by creating a visual break from the hard landscaping. There is no evidence to suggest that the land had ceased to provide that function prior to the appeal works being undertaken, and thus the presumption against the loss of such land applies in this case. Accordingly, I find that the proposal also conflicts with Policy ORC3.
8. The appellant has drawn my attention to what they believe to be a similar type of development that has taken place at 113 Perrysfield Road. However, the specific circumstances of how that development came to fruition are not before me so I am unable to draw direct comparisons with the appeal proposal, which I have determined on its individual merits against the relevant planning policies in the development plan.
9. I therefore find that the proposed development would harm the character and appearance of the area, and conflict with Broxbourne Local Plan Policies DSC1 and ORC3 for the reasons set out above.

Other Matters

10. There is a dispute between the parties regarding the ownership of the appeal site. Land ownership disputes are not for the planning system, or the planning appeals process to resolve. This is a legal matter upon which the parties involved need to seek separate resolution and it has no bearing on the merits of the development in planning terms.
11. The appellant has also cited health issues including referring to their allergies as a justification for carrying out the development. However, there is no evidence before me to demonstrate the development would alleviate the appellant's health issues, and consequently this has not been determinative when reaching my decision.

Conclusion

12. For the reasons I have stated above, I judge that the appeal is dismissed.

J N Seymour

INSPECTOR