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## Appeal Decision

Site visit made on 18 June 2024

**by Paul Cooper MSc MRTPI**

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

**Decision date: 25<sup>th</sup> June 2024**

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**Appeal Ref: APP/F1040/W/24/3338363**

**Land to the South of 45 Oak Close, Castle Gresley, Derbyshire DE11 9RU**

- 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 Smith against the decision of South Derbyshire District Council.
  - The application Ref DMPA/2022/1532, dated 28 November 2022, was refused by notice dated 2 October 2023.
  - The development proposed is change of use from open space to private domestic garden annexed to 45 Oak Close.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

### Reasons

3. The appeal site is located in a residential area located alongside 45 Oak Close. I am led to believe that it formed part of the original public open space upon construction of the residential properties. The land appears to connect with, and is part of a larger area that includes a pond, although I have not been provided with the details of its use, such as attenuation etc.
4. The appeal site appears to be laid to grass, with vegetation on site and is subject to some form of maintenance. The appellant states that no one uses the site, and the topography of the site restricts usage. Also, I have been made aware that footpath within the area is not included in the submission and a public sewer is located on site which would prevent any construction.
5. As the area of land will be subsumed into the garden area of 45 Oak Close, it would be fenced off. The change of use and boundary treatment would enclose and are that positively contributes the openness of the locality and would cause harm to the character and appearance of the locality.
6. Policy INF9 of the South Derbyshire Local Plan Part 1 (2016) (the LP) refers to open space provision and clearly states that the loss of open space would only be permitted where the required level of provision is exceeded, and the loss would be compensated in other forms. The appellant has not demonstrated that the open space is not required other than anecdotal evidence that it is not used, nor has the appellant identified compensation of any form.

7. On that basis I find that the appeal proposal is contrary to policy INF9 of the LP for the reasons shown above.

**Conclusion**

8. For the reasons given above I conclude that the appeal should be dismissed.

*Paul Cooper*

INSPECTOR