



Appeal Decision

Site visit made on 10 June 2025

by A Phillips MPlan BA CertHE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2025

Appeal Ref: APP/W1905/W/25/3361929

Land Adjacent to no. 72 Lammasmead, Wormley, Hertfordshire EN10 6HY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Tarczy against the decision of Borough of Broxbourne Council.
 - The application Ref is 07/24/0317/F.
 - The development proposed is described as: construction of 1 x end of terrace house with associated parking and external works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have updated the address from the application form, to provide a more detailed description than just the easting and northing. On this basis I have used the site address on the Decision Notice.
3. A local resident has stated in their representations that there is a bat box on one of the trees on the site. With the proposal potentially affecting a protected species I have raised this to a main issue and both the Council and appellant have had chance to comment on this issue.

Main Issues

4. The main issues are does the proposal:
 - lead to a loss in public amenity space;
 - and potential harm to biodiversity.

Reasons

Public Amenity Space

5. The site is located adjacent to 72 Lammasmead on an area of grassland that benefits from trees. The site forms an approximately rectangular shape and extends to the rear boundary of 92 Lammasmead and measures approximately 200sqm. Adjacent to the site is a public footpath and on the opposite side of the footpath is more grass open space that is adjacent to land in connection with the railway. This entire area of grassed space connects to the other cul-de-sacs of Lammasmead via other green spaces. It was also noted on the site visit that there are other green spaces on Lammasmead and from the evidence provided there are also much larger green spaces within walking distance.

6. The proposal is seeking to add a terrace townhouse dwelling of a very similar appearance to the rest of the terrace block onto the side elevation of 72 Lammamead, with the proposed boundary treatment extending up to the edge of the public footpath.
7. From the information provided within the appeal, the space is an undesignated amenity space and not a Local Green Space as defined within the National Planning Policy Framework (Framework). The site is a relatively small area of open space that serves to provide a place for informal recreation, with the added benefit of combining with the other informal recreational space on the other side of the public footpath. While there are other spaces of various sizes in the local area, this does not materially diminish the importance of this space for recreation and leisure purposes. So, while this space does not provide a fundamental break in built form, as it forms a natural infill plot between 70, 72 and 92 Lammamead, there would be a noticeable loss of recreational space in the local area.
8. I find that the proposal would lead to the loss of amenity space that can still be used for daily recreation. The proposal on this basis does not comply with ORC3 of The Broxbourne Local Plan 2020 (Local Plan), which seeks to protect amenity spaces that still provide for the local area. The Framework supports this by seeking to preserve open spaces in Chapter 8.

Biodiversity

9. A local resident has stated that there is a bat box in one of the trees on the site and all species of bats are protected. An ecological survey is necessary in advance of a planning application if the proposal could have a significant impact upon biodiversity or when there might be a protected species present. No ecology survey was provided during the application or appeal stage. Whilst in this case it is possible the bat box was installed post the Council's determination, the development could still cause significant harm to a protected species. In addition, in line with Government guidance it is unusual to condition a bat survey, as the decision maker needs to consider the full impact of the development proposal on protected species before a final decision is made. On this basis, given that there is no material reason to go against standard advice, the potential harm to protected species weighs significantly against the development.
10. It is concluded that the proposal could cause significant harm to a protected species on site and on this basis the proposal does not comply with the Framework, as Chapter 15 seeks where possible to avoid significant harm to biodiversity.

Other Matters

11. Other appeals of similar development in the local area have been mentioned, though I have not been provided with the details of these proposals or their individual merits and constraints. Finally, each application must be determined on their own individual merits.
12. The proposal has shown space for two cars to park in tandem off the turning head. However, one of these spaces is on the other side of a footpath and the Local Highways Authority have stated it is within the public highway and would be an offence to park here. While the proposal would underprovide on parking, which the Council has acknowledged and stated is acceptable in this situation. I have not

provided with detailed evidence to go against this assessment and on this basis there is no identified material harm to highway safety.

Planning Balance

13. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.
14. The Council has not disputed the appellant's argument that it cannot demonstrate a deliverable five year supply of housing land. For the purposes of this appeal, I have proceeded on the basis that 11d(ii) of the Framework is engaged. This states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
15. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the Local Plan as it will cause the loss of amenity space. For these reasons, the proposal conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
16. The Framework promotes residential development in sustainable locations. The benefit of the single dwelling in supporting both services within the settlement is limited. There is also likely limited economic benefit during the construction phase.
17. However, with the small scale of the loss of amenity space and that a substantial amount of recreational space in Lammasmead would not be affected, this loss moderately weighs against the proposal. As detailed above there would be the possibility of significant harm to a protected species.
18. The adverse impacts would, therefore, significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.

Conclusion

19. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

A Phillips

INSPECTOR