



---

# Appeal Decision

Site visit made on 7 June 2022

**by C Coyne BA (Hons) DipTP MRTPI**

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

**Decision date: 11 July 2022**

---

## **Appeal Ref: APP/N2535/W/22/3291383**

### **3 Fenton Fields, Fenton, Lincoln LN1 2GE**

- 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 Brian Trendell against the decision of West Lindsey District Council.
  - The application Ref 143522, dated 3 August 2021, was refused by notice dated 12 November 2021.
  - The development proposed is described on the application form as 'The area of land concerned is adjacent to No 3 Fenton Fields. Although previously designated as open space it has been maintained by us since we moved into the property in Oct 2007. The land has now been purchased by us from the Parish Council. There is a covenant on the land as part of the purchase that states that it may be used as garden land by the adjacent property (3 Fenton Fields). This application for change of use from Open Space to Residential Garden Land in accordance with the said covenant. The land is only to be used as a garden with the existing wall remaining in place'.
- 

## **Decision**

1. The appeal is allowed and planning permission is granted for change of use of land from open space to residential garden at 3 Fenton Fields, Fenton, Lincoln LN1 2GE in accordance with the terms of the application, Ref 143522, dated 3 August 2021, and the plans submitted with it, subject to the following conditions:
  - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the development hereby permitted shall not be altered through the enlargement, improvement, or other alteration of the host dwellinghouse and no fences, gates or walls shall be erected within the additional curtilage and no new hardstanding shall be installed within the additional curtilage.

## **Preliminary Matter**

2. The Council has described the development as 'change of use of land from open space to residential garden'. I note that the appellant has also utilised this description on their appeal form. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.

### **Main Issue**

3. The main issue is whether the appeal site is a suitable location for a residential garden having regard its public amenity value.

### **Reasons**

4. The Council has raised a concern in that the proposed change of use of the appeal site from public open space to a residential garden would lead to the loss of its function and purpose of helping to soften the built environment of the area and for the benefit of residents thereby also having an adverse impact on the associated public amenity value of the land.
5. The appeal site was provided as an area of public open space as part of the residential development to which it belongs as well as several other similar small areas of public open space nearby. Given its size, narrowness, and location I consider the functional public amenity value of the site to be visual.
6. The appellant owns this land having purchased it from the Parish council and the associated s106 legal agreement has been amended accordingly. The proposal would not erect a high fence or wall on the outer boundary of the appeal site closest to the footpath and while I note that a low railing has been installed this does not obscure views of this land. The proposal would also not move the existing higher boundary wall to encompass the appeal site. Since purchasing the property the appellant has also planted some trees and shrubbery on the site which in my view improve its visual amenity value when compared to the other area of public open spaces nearby which are bare grassed areas.
7. Furthermore, given its location next to the public footpath and the fact that they already have a back garden on the other side of the wall, I consider it likely that the use of the proposed garden area by occupiers of the host property would be less frequent than their use of the back garden. Consequently, I consider that the proposal would create a more ornamental garden that would not have an adverse impact on the visual public amenity value of the appeal site, nor would it negate the associated public benefit that it provides.
8. I therefore conclude that the appeal site is a suitable location for a residential garden having regard its public amenity value. Accordingly, it would not conflict with the relevant requirements of policies LP17, LP24 and LP26 of the adopted Central Lincolnshire Local Plan.

### **Conditions**

9. In the interest of public amenity and the living conditions of the occupiers of the host dwelling I have imposed a necessary condition prohibiting the alteration of the proposed additional residential garden as a result of any future development within its curtilage or that of the host property.

### **Conclusion**

10. For the reasons set out above I conclude that the appeal should be allowed.

*C Coyne* INSPECTOR