



Appeal Decision

Site visit made on 14 October 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2022

Appeal Ref: APP/N2535/W/22/3298517

4 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 Ian Hazledine against the decision of West Lindsey District Council.
 - The application Ref 144148, dated 14 December 2021, was refused by notice dated 9 February 2022.
 - The development proposed was originally described as 'creation of new access, garage, fence and change of use of land to domestic.'
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Decision

1. The appeal is allowed and planning permission is granted for creation of new access, garage, fence and change of use of land to residential garden at 4 Fenton Fields, Lincoln LN1 2GE in accordance with the terms of the application, Ref 144148, dated 14 December 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LIFF 001; LIFF 003; LIFF 004 and LIFF 005.
 - 3) Notwithstanding the provisions of Classes A, E, and F of Schedule 2, Part 1 and Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order revoking and re-enacting that Order, the additional residential garden hereby permitted shall not be altered through the enlargement, improvement or other alteration of the host dwellinghouse, no buildings or structures shall be erected within the additional curtilage permitted and no new hardstanding and gates, walls or fences shall be erected unless planning permission has first been granted by the Local Planning Authority.

Preliminary Matters

2. The original description of development is vague in its use of the word 'domestic' to describe the proposed use. It is evident that the intention is for the land in question to change to residential use in connection with the dwelling at 4 Fenton Fields. Accordingly, for precision and clarity and with the agreement of the main parties, I have amended the description in the formal decision above to instead refer to 'residential garden.'

3. On site, I saw that the land in question has already been fenced off, but other elements of the proposal have not been undertaken, such as the garage or proposed access. The fence erected differs in height from that proposed on the submitted plans. Therefore, I have not assessed the proposal as being partly retrospective in nature.

Main Issues

4. The main issues are whether the proposed change of use is acceptable, having regard to i) the public amenity value of the land and ii) the effect on the character and appearance of the area.

Reasons

Public Amenity Value

5. The appeal relates to a roughly triangular area of grass to the south of 4 Fenton Fields. The land forms part of the landscaping of the development adjacent to a footpath leading to housing in Addison Place. I understand that the land originally formed part of the planned landscaping for the estate.
6. It is of relevance to the appeal that a Section 106 agreement accompanied the original permission which required Fenton Parish Council to manage and maintain the open space and footpath link "*in perpetuity for the benefit of the residents of the development site and of the Parish of Fenton and for no other purposes*". However, the appellant subsequently purchased the land from the parish council and, in July 2020, a deed of variation was signed which removed the obligation on the parish council to maintain the land. I saw on site that the site has subsequently been enclosed by a timber fence of around 1 metre high. The Council argues that, notwithstanding the change in ownership, the land retains public amenity value in that it helps to soften the built environment.
7. It is also relevant that a proposal was allowed on appeal in July 2022 at 3 Fenton Fields¹, directly opposite the appeal site, where smaller area of land on the opposite side of the footpath was permitted to change from open space to use as a residential garden. In that case, the Inspector identified the main value of the land as being visual, and the proposal was to maintain the open form of the land by enclosing it with low, open railings seen elsewhere in the estate. I saw on site that the space adjacent to No 3 maintains an open character and continues to have public amenity value through its attractive and well-maintained planting.
8. In contrast, the proposal before me seeks to enclose the open space with a 1.8 metre closed boarded timber fence. In addition it is proposed to erect a detached garage structure and create a new vehicular access.
9. I find that the main value of the appeal site lies in its contributing to a sense of space between the built form. However, the appellant indicates anecdotally that the site was primarily used as a dog toilet in recent years. I cannot be certain of its past use, but given its small size, it is not unreasonable to consider that it had limited utility as a space for recreation. I also saw that it was not well lit and likely to form a dark and uninviting space at night. This aside, as it is now in private ownership, the appellant has sought to enclose the

¹ APP/N2535/W/22/3291383

land to prevent unauthorised access, and it is no longer available for public use.

10. In allowing the land to transfer to private ownership, it appears to me that there has been an acceptance that its public amenity value was limited, and was outweighed by the costs of maintaining it. The existing absence of development on the land offers some sense of openness, but it is not of a scale that significantly influences the overall form or density of the estate layout, or how it is experienced walking through the footpath between Fenton Fields and Addison Close.
11. The proposed taller fence would reduce the visibility into the site, and along with the proposed garage would partly reduce the sense of openness which exists. However, even with the garage, the site would still be undeveloped to a large extent, and there would remain a sense of separation amid the built form which would still be appreciable above the fence, where the existing tree cover would continue to form the backdrop to the site in views, both when approaching from the north down Fenton Fields or coming from Addison Close. As such, whilst its public amenity value is limited, it would still contribute to a sense of space within this part of the development.
12. For these reasons, I conclude that the proposed change of use would not result in a harmful loss of public amenity value. No conflict would therefore arise with Policies LP17, LP24 or LP26 of the Central Lincolnshire Local Plan (April 2017) (the CLLP), which together require developments to achieve high quality sustainable design that contributes positively to local character, landscape and townscape; and to provide an appropriate amount of new open space.

Character and Appearance

13. As set out above, the proposed fencing would reduce visibility into the site and enclose the footpath on one side. However, I saw that similar boundary treatments already exist along this side of the footpath which enclose the gardens of 21 Addison Place and an electricity substation. I also saw tall timber fencing elsewhere within the cul-de-sac of Fenton Fields. Given this context, the addition of the proposed timber fence would not be out of character with the surroundings.
14. I accept that the fence would limit the visual permeability of the site, but the footpath would remain open on its other side adjacent to the No 3, and there would remain a general sense of openness to this part of the estate given the land would remain largely undeveloped behind the fence. Having observed the site, I am not persuaded that the surroundings would be significantly harmed by the enclosure of the land. It would be viewed as a contiguous part of the property at No 4 and no different to adjacent domestic garden areas.
15. The proposed access and driveway would reflect a similar arrangement immediately opposite at No 3. The garage would be set into the site, behind the proposed fence. It would appear as a normal, domestic feature, ancillary in scale and function to the main dwelling, that would not appear out of place within the residential surroundings of the site.
16. Therefore, I conclude that the proposal would preserve the character and appearance of the area, in accordance with the aforementioned aims of Policies

LP17 and LP26 of the CLLP to achieve high quality sustainable design that contributes positively to local character, landscape and townscape.

Other Matters

17. The Council did not find harm in respect of other matters, including highway safety, flood risk, drainage, trees, minerals and waste. I have no substantive evidence to reach different conclusions to the Council in these respects.

Conditions

18. A condition specifying the approved plans is necessary, in the interests of certainty.

19. It is also necessary to restrict permitted development rights to construct extensions, outbuildings or hard surfaces within the site or further boundary treatments, beyond the works approved, as this may result in an unanticipated scale of development that would adversely affect the open character of the site or the scale of the host dwelling relative to others in the immediate surroundings.

Conclusion

20. For the reasons set out, I conclude that the appeal should be allowed.

K. Savage

INSPECTOR