



Appeal Decision

Site visit made on 4 October 2023

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2023

Appeal Ref: APP/N1540/W/23/3319290

56 Deer Park, Harlow, Essex CM19 4LF

- 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 Fletcher against the decision of Harlow District Council.
 - The application Ref HW/FUL/22/00429, dated 25 September 2022, was refused by notice dated 8 November 2022.
 - The development proposed is the change of ownership of a public landscape space/verge to a private owned piece of land to enable the homeowner to improve the environmental quality of the piece of land. The area will be re landscaped in stages, removing most if not all poor-quality vegetation and replacing it with more environmentally beneficial species.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development given above is taken from the Council's Decision Notice rather than the planning application form, as it provides a more concise description of the proposal.

Main Issues

3. The main issues are:
 - Whether there is sufficient information to demonstrate that the existing character, appearance and function of the Green Finger would be preserved and enhanced.
 - Whether the proposal would be an appropriate form of development within the Green Finger.

Reasons

4. The appeal site is an area of land which abuts the garage to the front of the house at 56 Deer Park. The land is within a designation known as the Green Finger, as set out in, and defined by Policy WE2 of the Harlow Local Development Plan 2020 (LDP). Policy PL5 of the LDP sets out criteria against which development on land in the Green Fingers must meet to be deemed acceptable.
5. Policy WE2 states that Green Fingers provide open links between Green Wedges or other areas of open space. They protect and enhance natural habitats, ecological assets and landscape features. They were part of the original concept of Sir Frederick Gibberd's landscape-led master plan for

Harlow; the policy justification states that Green Fingers are fundamental to the character of Harlow and these areas were generally kept free of buildings and as natural as possible. The dense plant growth I noted on my site visit is a natural feature in itself and contributes to the natural character of the Green Finger.

6. Whilst I recognise that the proposals would potentially benefit biodiversity, without a detailed assessment of the trees and plants growing on site, their condition, and details of any necessary pruning or removal, there is insufficient evidence to assess the overall impact on trees and ecology. Reference is made to bats in the appellant's submissions, and no evidence has been submitted regarding how the proposals would potentially affect bats roosting and feeding environments. In the absence of arboricultural and ecological assessments I am unable to conclude that there would be no harm to local flora and fauna as a result of the proposals. I consider that this matter is fundamental to the scheme; given the degree of uncertainty I do not consider it can reasonably be dealt with by planning conditions.
7. The scale of the proposal is small when considered in the context of the Green Fingers in their entirety. However, bearing in mind the importance afforded to the role of and protection of Green Fingers by the development plan, I do not consider that there is sufficient evidence to demonstrate that the proposed wildlife garden would not harm the existing natural landscape of the Green Finger. The evidence submitted with the appeal does not demonstrate that criteria (d) and (e) of Policy PL5 have been satisfied; namely that the roles, functions and historic significance of the Green Finger would be preserved, enhanced and not adversely affected; and that the wider landscape setting is preserved, enhanced, promotes biodiversity and integrates with existing Green Infrastructure. The proposal is also in conflict with LDP Policy PL1 which sets out that development must take account of landscape character, including trees and landscaping.

Appropriate development

8. Whilst the indicative drawing that has been submitted with the proposal shows an area of quite different character to the very natural state of the remaining Green Finger in this area, the appellant's stated aim of providing an area that is an ecological enhancement over the current condition, would fit with the function of the Green Finger as set out in LDP Policy WE2. The proposal would, however, also need to address the requirements of other relevant development plan policies for it to be judged as appropriate development within the Green Finger. Given my reasoning with regards to the requirements of LDP Policies PL5 and PL1 set out above, I am therefore unable to conclude that the proposals would be appropriate development in the context of Policy WE2.
9. The appellant states that the proposed landscaped area is not intended to form additional residential curtilage. The council's concern in this respect appears to be the risk of typical garden structures being erected on site, resulting in harm to the character and appearance of this part of the Green Finger. Had the appeal been allowed, I consider this aspect could reasonably have been controlled by an appropriate condition.

Other Matters

10. I note that the appellant is concerned with issues of maintenance of the Green Finger, particularly regarding invasive species. This is a matter between the main parties and has no bearing on my consideration of the appeal.

Conclusion

11. I have found that on the basis of the evidence submitted, there is not sufficient information to demonstrate that the existing character, visual amenity and function of the Green Finger would be preserved and enhanced. As such it is contrary to the development plan read as a whole. The material considerations in this case do not indicate that the decision should be taken otherwise than in accordance with the development plan. The appeal is therefore dismissed.

L Francis

INSPECTOR