



Appeal Decision

Site visit made on 12 December 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 January 2024

Appeal Ref: APP/W1905/W/23/3323166

8 Riverside Path, Cheshunt, Hertfordshire EN8 9QA

- 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 Bogdan Balut against the decision of Broxbourne Borough Council.
 - The application Ref 07/23/0078/HF, dated 28 January 2023, was refused by notice dated 31 March 2023.
 - The development is a pergola in the front garden.
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Decision

1. The appeal is allowed and planning permission is granted for a pergola in the front garden at 8 Riverside Path, Cheshunt, Hertfordshire EN8 9QA in accordance with the terms of the application, Ref 07/23/0078/HF, dated 28 January 2023, and the plans submitted with it comprising the plan referenced as TQRQM23028103000240 and the plan titled Proposed Plan.

Preliminary Matters

2. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. However, as the Framework's policy content insofar as it relates to the main issues has not been significantly changed there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.
3. The application form confirms that the development was completed prior to submission. The Council have assessed the scheme retrospectively. As part of the appeal, the appellant has submitted proposed alterations to the pergola. However, the appeal process should not be used to evolve a proposal and it is important that the scheme I assess is the same scheme that was considered by the Council and interested parties. Therefore, I have assessed the pergola as constructed and have determined the appeal retrospectively.

Main Issues

4. The main issues are the effect of the pergola on:
 - the character and appearance of the area; and
 - the living conditions of neighbouring occupiers, with particular regard to privacy and outlook.

Reasons

Character and appearance

5. The development comprises a timber pergola which has been constructed in the front garden of 8 Riverside Path (the host property). The host property comprises a two-storey dwelling constructed from brick in a range of orange and brown colours, with dark roof tiles. It is orientated towards the path known as Riverside Path which connects Dewhurst Road to New River.
6. The host property is the penultimate dwelling in a short row of terraced houses. All the dwellings in the row comprise a similar built form, access arrangement, use of materials and are orientated towards the path. However, the staggered siting of the front building lines disrupts this continuity or rhythm. Further variety is evident in the existing frontage and side boundary treatments in the row, including open boundaries, hedging of different heights and species, low metal railings and low wooden close board and picket fencing in different colours. As a result, the character of the built form and associated garden areas contrasts with the more open and linear space created by the path and its associated grassy area.
7. Although the pergola occupies a significant proportion of the front garden space and is taller than nearby boundary fencing, its construction with part open, part slatted sides allow views through the structure. It marginally exceeds the height of the top of the ground floor window but given its siting away from the site boundaries and front elevation of the dwelling, this does not lead to an unbalancing effect on the visual appearance of the host property. Furthermore, its light brown colour combined with the plants growing up the sides of the pergola, blend into the backdrops created by the brick frontage of the host property, the rear fence to 9 Riverside Path and the hedged boundary between 6 and 7 Riverside Path. Its construction and appearance are not dissimilar to other structures typically found within a domesticated environment and, as a result, do not intrude into the townscape of the neighbourhood. Despite its frontage location and visibility from the public domain, it maintains the open character of the path and associated grassy area.
8. I conclude that the pergola, as constructed, does not harm the character and appearance of the area. It accords with policies DSC1 and DSC2 of the Broxbourne Local Plan 2018-2033 (the Local Plan) which requires, amongst other provisions, a high standard of design for all development and the character and design of existing development to be respected.
9. It also accords with Chapter 12 of the Framework which requires development to be visually attractive and add to the overall quality of the area.

Living conditions

10. The level of privacy experienced by the host properties' neighbouring occupiers is influenced by the function of the front garden spaces, the height and type of boundary features and the proximity of the path. As front and side boundaries to the host property and its immediate neighbours comprise low fences, views between the front gardens, ground floor windows and the publicly accessible path are largely unrestricted. As such, the level of privacy experienced by the neighbouring occupiers in the front external and internal spaces is typical of the level considered to be acceptable within most residential areas. The

construction of the pergola and its siting away from the front elevation of the host property does not materially or unacceptably reduce this level of privacy, whilst increasing the level of privacy experienced by the appellant when using the front garden.

11. Due to its siting, the pergola can be seen in views from the front windows of neighbouring properties. However, given the relationship between the pergola and the closest windows of neighbouring properties, at ground floor level, the views are at an oblique angle. Consequently, the pergola does not restrict the views from these windows to the detriment of the outlook of the occupiers of these neighbouring properties.
12. I conclude that the pergola does not harm the living conditions of neighbouring occupiers, with particular regard to privacy and outlook. It accords with Policy EQ1 of the Local Plan which states, amongst other provisions, that all development within the urban area must avoid detrimental impacts on the occupiers of neighbouring properties. Additionally, the pergola does not conflict with the privacy guidelines set out in the Borough-wide Supplementary Planning Guidance¹.
13. It also complies with Chapter 12 of the Framework which requires development to ensure places with a high standard of amenity for existing and future users are created.

Conditions

14. As the pergola has been constructed there is no need for me to impose conditions requiring the development to be commenced within a specific timeframe or the approval of materials by the Council. However, for the avoidance of doubt, I have referenced the application plans within my decision above.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed.

Juliet Rogers

INSPECTOR

¹ August 2004 and updated 2013