



Appeal Decision

Site visit made on 25 March 2024

by Ian McHugh DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14.05.2024

Appeal Ref: APP/J1535/D/23/3331421

39 Albion Hill, Loughton, IG10 4RG

- 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 Pasquale and Mina Giordano against the decision of Epping Forest District Council.
 - The application Ref EPF/1399/23, dated 19 June 2023, was refused by notice dated 20 September 2023.
 - The development proposed is a landscaping scheme, including outdoor swimming pool, decking and grass terraces, in pursuant of approved application EPF/0277/20.
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Procedural Matters

1. The description of the development given in the heading above indicates that there is a link between the landscaping scheme and application reference EPF/0277/20. That application was for a rear extension and alterations to the roof of the dwelling, plus internal alterations. It is not clear why the appeal landscaping scheme should be pursuant to that development, given that it was submitted as a separate planning application. Consequently, I have deleted reference to EPF/0277/20 in my decision below.
2. The proposal includes an outdoor swimming pool. However, both parties appear to agree that this would normally be permitted development under the provisions of Class E of The Town and Country Planning (General Permitted Development) Order 2015. I have given weight to this in my reasoning below.
3. At the time of my site visit, I observed that some of the works had already taken place. This included the swimming pool and retaining structures to form terracing in the front garden area. The fact that the work has started does not influence my decision.

Decision

4. The appeal is allowed and planning permission is granted for a landscaping scheme, including outdoor swimming pool, decking and grass terraces, at 39 Albion Hill, Loughton, IG10 4RG in accordance with the terms of the application, Ref EPF/1399/23, dated 19 June 2023, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, 1362 / 10, and TCTC-18544-PL-01 Rev A.
 - 2) The development hereby approved shall be undertaken in accordance with the submitted Tree Survey/ Arboricultural Method Statement reports

and as shown on Appendix B3 to the Arb Report - Tracy Clarke Tree Consultancy 'Arboricultural Method Statement (Landscape operations)' drawing number TCTC-18544-PL-03 (dated December 2022).

Main Issues

5. The main issues are the effect of the proposal on the living conditions of the occupants of neighbouring dwellings with regard to noise and disturbance; and the effect of the proposal on the setting of the appeal dwelling.

Reasons

Living Conditions

6. The appeal property shares boundaries with five residential properties on Albion Hill and High View Close. These neighbouring properties have gardens that vary in size and shape and the separation distances between the dwellings themselves and the appeal property also vary. However, none are particularly close and the layout and pattern of development is what would be expected in a suburban location.
7. The Council considers that the proposal, which largely comprises areas of planting, the construction of terraces, areas of hard surfacing, plus the swimming pool would result in increased noise and disturbance that would disrupt the quiet enjoyment currently enjoyed by neighbouring residents. It considers that this would conflict with Policy DM9 of the adopted Epping Forest District Local Plan (LP). This policy seeks to ensure (amongst other things) that development considers the privacy and amenity of neighbours.
8. The Council's decision notice also cited conflict with paragraph 130 of the National Planning Policy Framework 2023 (The Framework). Since the decision was issued, The Framework has been revised (in December 2023) and the relevant paragraph is now number 135. This states (amongst other things) that planning decisions should create places with a high standard of amenity for existing and future users.
9. I note that the Council's officer concluded that the proposal would not have an adverse effect on the amenities of neighbouring residents and I have no reason to disagree with that conclusion. I have considered the concerns expressed by the occupants of neighbouring dwellings and particularly the potential for noise because of activity within and around the swimming pool. However, as the pool could be installed as permitted development, it would be unreasonable to dismiss the appeal based on these concerns. Furthermore, I am not aware of any reason as to how or why the activities in the garden would be any different to activity within any other domestic property.
10. Accordingly, I conclude on this issue that the proposal would not have an adverse effect on the living conditions of neighbouring residents and it would not conflict with Policy DM9 of the LP, or with The Framework, as referred to above.

Character and Appearance

11. The Council considers that the proposed landscaping scheme fails to complement the setting of the existing house and that it results in the loss of "important green infrastructure". Furthermore, it points to the lack of any

meaningful green barrier between the host house and number 4 High View Close, which is one of the dwellings at the rear of the appeal property. The Council states that for these reasons, the proposal conflicts with Policies DM5 and DM9 of the LP and with the provisions of The Framework 2023.

12. Policy DM5 seeks to retain and possibly enhance green infrastructure, whilst Policy DM9 requires landscaping to be integrated into the development as a whole. Also relevant is paragraph 135 of The Framework, which requires development to be visually attractive with appropriate and effective landscaping.
13. The proposal is an attractive and interesting proposal, which, in my opinion provides a variety of hard and soft landscaping that will enhance the dwelling. Garden layouts and their form vary along Albion Hill and I am not persuaded that the proposal will be harmful to the character or appearance of the area. Whilst the boundary with number 4 High View will comprise a brick wall with some tree planting, the fact that it will not be a 'green barrier' does not make the proposal unacceptable.
14. Consequently, I conclude that the proposal will not be harmful on the setting of the host property and that there is no conflict with the provisions of either the LP or The Framework, as referred to above.

Conditions

15. The Council has suggested conditions in the event of the appeal being allowed. As the work has already started, there is no reason to impose the standard three-year commencement condition. For clarity, a condition specifying the approved plans is imposed.
16. The Council has also suggested a condition that would require the landscaping scheme to be fully implemented within a period of 4 months. However, there can be a number of reasons why this may not be possible and I consider that a time limit for completion would place an unreasonable burden on the appellant and is not justified.
17. To safeguard the health and appearance of the existing trees and other vegetation within the site, a condition is imposed requiring that the works be carried out in accordance with the submitted Tree Survey/Arboricultural Method Statement.
18. The Council has also suggested that a condition be imposed requiring the replacement/replanting of trees, shrubs or hedges should any be removed, die or are seriously damaged within a period of 3 years following the completion of the development. Whilst this is often a standard condition attached to landscaping works, they are normally applied to areas of public space. I am not persuaded that it is reasonable to impose such a requirement on the occupants of a domestic property. In my opinion, the existing or future occupants should be able to change the planting layout or the garden arrangement without such controls.

Conclusion

19. For the reasons given above, it is concluded that the appeal be allowed.

Ian McHugh

INSPECTOR