
Sent: 21/09/2020 1:24:49 PM
Subject: Application for Review DA 2020/0212 21 Badcoe Road Cromer

Dear Planning Manager

We are writing further to our DA in relation to an in ground pool.

The DA was submitted on our behalf by Shaun Wright of Contour Landscapes.

Apart from the initial correspondence enclosing the notice required to be displayed at our home, we have not received any notification from the Council regarding the progress of the DA.

Having not heard from Mr Wright or your department, we were very surprised when we recently checked the available online information to find that our DA was in fact refused on 1 May 2020.

We have been informed by Mr Wright that he did not receive notification of your decision. The last contact he had with your department was in late April 2020 when he emailed further submissions to Kelsey Wilkes on 29 April in which he requested a site meeting.

For reasons that we do not understand we were not notified by your department of your decision. This lack of consultation and notification is a great concern to us as ratepayers and as the substantive applicants. We have copied the Mayor into this email to you it appears that either the correct process has not been followed or that the process is deficient. In the interests of proper process, local government should be open and transparent. It is a concern that your planning officer has not made any effort consult or communicate with us.

We also note on your website a reference to a failure on our part to respond to a request for a geotechnical report. We did not receive any such request from your department nor was any such request communicated to Contour Landscapes. The advice we received from Contour Landscapes is that a geotechnical report was not required and we would be grateful if you would clarify when the request was made, to whom and on what basis.

The refusal of the application is extremely disappointing to given that we purchased this property in May 2019 with the specific intention of re-instating the front pool for our 4 children. There was a front yard pool in place in this property for at least 30 years and this was a feature which brought the neighbours children together. Prior to purchasing the house we spoke in person with the duty planner at the Council and were informed that the fact the pool had already been in place at this property would be a relevant consideration in the determination of the DA. The decision quite clearly does not take this into account.

All of our neighbours are fully supportive of our application. The previous front pool is in fact still in situ but has been filled in with rubble – which causes poor drainage – and a covering layer of poor turf. The pool equipment remains in situ adjacent to the proposed development. The pool fencing remains in situ. The hard landscaping of the front yard was clearly designed to accommodate the pool. The installation of the pool will be straightforward given the direct street access and the planned front fence and the planting we have proposed as part of the \$60,000 development would significantly improve the current appearance of the block.

We find it striking the application could be contrary to landslip risk legislation given the excavation is on the flat street frontage of the property, yet the decision identifies the rear sloping block as a suitable alternative and indeed finds there is 'ample opportunity' available to us utilise that option. The only access to the backyard is in fact through a 1 metre wide side fence and a set of narrow external stairs. The excavator would have to be lifted by a crane over our 2 storey home. The excavated soil is likely to have to be hand carted down external stairs and our sloping driveway. The pool would have to be retained by a substantial retaining wall. Even if this could be achievable the cost would be prohibitive. A frog pond in the centre of our back yard would have to be removed, reducing biodiversity. It would also impact on our existing use of part of the backyard for a chicken coop and our future planned vegetable garden/composting, which we would have thought the Council would be at pains to support and encourage.

We also made the important point that even if it were feasible to install a rear pool, this would significantly undermine the roots of a number of established trees in our back yard. This would lead to a reduction in habitat for native wildlife and a loss of important canopy at a time when every other council is committed to increasing canopy to reduce their heat island effect and reduce carbon emissions. Ms Kelsey Wilkes conceded during the site inspection that "it would be impossible to put a pool in the back" yet for reasons which are not explained made

a decision to the complete opposite effect without affording us the opportunity to meet to discuss her apparent change of opinion.

The reality is that the front pool is the only available option for this block and undoubtedly this is why a front pool was installed at that location by past owners and maintained at this address from at some point prior to 1987 to as recently as 2017 when it was filled in. As much was conceded by Ms Wilkes during her site inspection at which time she indicated there were grounds for an exception to be granted in this case to permit the application which she intended to raise with her supervisor. Again this is not reflected in the decision.

The planner has, in our view, placed undue emphasis on the consistency of the streetscape and avoiding what the Council deems to be an undesirable precedent. A stroll around our neighbourhood reveals the vast array of styles of housing, front fencing and front landscaping including open and fully fenced front yards and yards with hedges well in excess of 1.8 metres eg 1 Badcoe Road. There are at least 5 front yard pools within minutes' walk of our home (eg in Grover Avenue and Maybrook Ave).

It does not appear to us that any consideration was given to the residential amenity to be gained by granting this application and the fact the precedent was already set in this particular case by the previous owners of this property. There has been a pool in the proposed location for far longer than the pool has been absent. We also find it difficult to understand precisely what 'amenity' is lost by enclosing a small patch of front yard when the view of house, which is set well above the front yard, will remain unobstructed.

We are aware that the time limit for seeking a review of the decision lapsed on 1 August. In light of the fact we were not notified of the decision we respectfully request you permit us to exercise our right of review immediately.

We fear we are now likely to miss our opportunity to have a pool in place this year and we would be grateful if you could give this application for review your urgent consideration in light of the unique history of the pool at this property which we effectively are simply looking to reinstate. We would appreciate the opportunity to meet with you to discuss this matter further, preferably on site, and to make further submissions in relation to the reasons for refusal.

Yours Faithfully

Kirrilee & Martin Wallace

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Kind Regards

Kirrilee Wallace