

---

# Appeal Decision

Site visit made on 16 February 2017

**by G Powys Jones MSc FRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 27<sup>th</sup> February 2017**

---

**Appeal Ref: APP/L5240/D/16/3165242**

**53 Chapel View, South Croydon, London, CR2 7LJ**

- 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 Oleksandr Uchuvatov against the decision of the Council of the London Borough of Croydon.
  - The application Ref 16/02756/P, dated 27 May 2016, was refused by notice dated 29 September 2016.
  - The development is described as new garden land level alterations (landscaping).
- 

## Decision

1. The appeal is allowed and planning permission is granted for new garden land level alterations (landscaping) at 53 Chapel View, South Croydon, London, CR2 7LJ in accordance with the terms of the application Ref 16/02756/P, dated 27 May 2016, subject to the condition that: *the development hereby permitted shall be completed in accordance with the following approved plan: Drawing Ref 150901/A02/Rev A.*

## Preliminary & procedural matters

2. Almost all the work subject of the application has already been carried out. The appellant, in effect, seeks planning permission to retain that already built and to complete the works in accordance with the submitted plans. I shall proceed on this basis.
  3. The submitted 'as proposed' plan shows an outbuilding at the end of the garden, and it is in place. However, the Council did not treat this as part of the application. Since the outbuilding is not mentioned in the appellant's description of development in the application form, and since there is no indication to the contrary in the appeal documents, I do not propose to treat the outbuilding as being part of the appeal. The Council's officers say that it appears to be permitted development, but that is a not matter upon which I am called upon to comment.
  4. The Council's decision was taken at its Planning Sub-Committee, and the outcome was contrary to officer recommendation. I requested a copy of the Sub-Committee's minutes and these, apart from identifying some of those who spoke at the meeting, do not record the debate in full. Accordingly, the minutes contain no greater information than is provided in the Council's decision notice as to why the application was refused. There is no indication that members of the sub-committee visited the site to view the development.
-

5. It appears however that a majority of the sub-committee's members attributed greater weight to those who spoke at the meeting, including the ward councillor Cllr Bashford and a member of the Crohan Valley Residents' Association (RA), than to the officers advising them.
6. The RA and local residents, including those of the two adjacent properties, submitted representations at application stage. However, the residents of 51 Chapel View withdrew their objections prior to my visit with a request that they should not be taken into account in the appeal process. I have not therefore seen the original objection letters submitted by No 51's residents, and I have not drawn any inference from their withdrawal.
7. The residents of 55 Chapel View (No 55) submitted a letter of objection at application stage together with online comments, supplemented by a series of useful photographs, which show, amongst other matters, the condition of next-door's garden prior to and during the construction phase. Arrangements had been made for me to visit No 55, if I considered it necessary. However, I am satisfied having regard to the submitted representations that I could see all I needed to see from within the appeal site to make a proper assessment.

### **Main issues**

8. The main issues are the effect of the development on the character and appearance of its surroundings and on the living conditions of neighbouring residents.

### **Reasons**

9. The appeal property stands amongst other detached dwellings on the eastern frontage of Chapel View within a pleasant residential estate. The dwelling, like those closest on either side, has been built on a slope. It's rear garden rises towards dense, attractive woodland.
10. No 55's photographs show the condition of the appellant's garden prior to and at different phases of the construction. It is understandable that the extent and nature of the works, when undertaken, would have been of concern to the immediate neighbours. However, I have the considerable advantage of carrying out my assessment when the works are virtually complete.
11. Three levels have been created in the garden above the extended dwelling and its apron. The levels are created by retaining walls of modest height. The lower level is currently concreted, but the intention is that it covered with decking. The middle level is comprised of a lawn with some recently planted trees. Some newly planted flowerbeds are also evident. The upper level is slabbed. The outbuilding mentioned earlier is sited here, but most of this upper level, if the garden furniture is indicative, would be used for sitting out.
12. Steps and a path link the different levels, and a timber fence with concrete posts encloses the whole of the garden. The timber fence's height exceeds 2m in places, and it is stepped, in view of the slope.
13. Because of the fence's screening effect, views into the garden are largely restricted to the upper floors of the nearest dwellings. Whilst the works carried out by the appellant has altered the garden's appearance, the end result is not, in my view, unpleasant or unattractive. The materials used seem to me to be

- of an acceptable quality and appearance. In time, as the plants and trees mature, the newness of the works will become less evident.
14. The boundary treatment, in comparison with the more natural boundaries that previously predominated, is somewhat stark largely in view of its newness. In my experience, however, timber fences of this type are commonly used and seen the length and breadth of the country in not dissimilar garden situations. Planting, when mature, would mellow their new appearance. The timber fence exceeds the permitted development allowance in places but not excessively so. On balance, I share the Council officer view that it would be unreasonable to refuse planning permission in these circumstances, and additionally because I do not consider that the fencing causes the degree of harm suggested by the Council and some residents.
  15. The Council has not specified the precise reasons why it considered that the development is '*...detrimental to the amenities of the occupants of adjoining property..*'. In this regard, I have already considered the effect of the development on neighbours in terms of its visual impact, and have found it acceptable.
  16. Furthermore, the officer report deals in some detail with issues of overlooking, privacy, loss of light and outlook. Officers concluded that the impact on neighbouring living conditions was acceptable. I share this view, for the same reasons, and consider that, now that the development is virtually complete, neighbouring residential amenity has not been harmed.
  17. I therefore conclude on the main issues that the development has not harmed the character and appearance of the surrounding area, and the living conditions of neighbouring residents has not been unacceptably affected. Accordingly, no conflict arises with those provisions of saved policies UD2, UD3 & UD8 of the Croydon Replacement Unitary Development Plan that, in combination, are directed to ensure that development respects local character and protects residential amenity.

### **Other matters**

18. Other development plan policies are mentioned in the representations, but those to which I have referred are considered the most pertinent in the particular circumstances of this case.
19. I have considered the representations made by the RA and other residents. No 55's residents raise some matters which are of obvious concern to them, but which in my view, are symptomatic of a neighbour or boundary dispute. Whilst I understand the reasons for the concern, the planning system does not exist to protect the purely private interests of one person against the activities of another. Other avenues are open to No 55's residents to pursue on some of the issues raised, should they consider it warranted or expedient.
20. There is no convincing evidence that the retaining walls are unstable or that soil instability, possibly leading to landslides, has been caused. Additionally, it is the appellant's responsibility, rather than that of planning, to ensure that the modest retaining walls have been acceptably built in structural terms.
21. All other matters raised in the representations have been taken into account, including the references to the Council's Supplementary Planning Document

No. 2 on residential extensions and alterations, but no matter raised is of such significance as to outweigh the considerations that led me to my conclusions.

22. Accordingly, the appeal shall be allowed, and the development already carried out may be retained, and the remainder completed.
23. The Council's suggested condition that the development shall take place in accordance with the approved plans shall be imposed in the interests of certainty, albeit with a slightly modified wording to reflect the fact that most of the works shown on the '*as proposed*' plan have already been undertaken.

*G Powys Jones*

INSPECTOR