



Appeal Decision

Site visit made on 22 December 2021

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2022

Appeal Ref: APP/L5240/D/21/3283499

12 Weaver Close, Croydon, CR0 5TS

- 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 Abuzarr Kotadia against the decision of the Council to the London Borough of Croydon.
 - The application Ref 21/03296/HSE, dated 5 July 2021, was refused by notice dated 13 August 2021.
 - The development proposed is described as proposed garden alterations and all associated works.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The proposed garden works have commenced. A new retaining wall has been constructed along the southern boundary and part of the western boundary of the rear garden and some infilling has taken place. For the avoidance of any doubt, I confirm that this decision is based upon the submitted drawings and not on the works that have been undertaken on the site.

Main Issues

3. The first main issue is the effect of the proposal on the character and appearance of the area. The second main issue is the effect of the proposal on the living conditions of the occupiers of 10 Weaver Close (No.10), with particular regard to visual impact, daylight and privacy.

Reasons

Character and appearance

4. The appeal site is located in on the edge of the settlement within an area with steeply undulating topography. The residential roads rise to the northwest and northeast and the dwellings are built into and out of the often steeply rising ground. Rear gardens often sit at different levels and include sloping gardens and areas of cut and fill. The gardens are enclosed by a combination of fences, walls and retaining walls of various heights and materials.
5. Weaver Close occupies a hill top position and comprises a small cul-de-sac. It serves five individually designed detached family dwellings accessed via a narrow access road, which is partly flanked by brick retaining walls. The

appeal property is located in the southeast corner of the cul-de-sac where the land falls to the south, southwest and southeast. This facilitates expansive views over the countryside to the east from the appeal site. Immediately to the southwest of the dwelling on the appeal site is a detached double garage with a pitched roof. This garage acts as a screen between the rear patio areas and upper gardens of both the appeal property and No.10.

6. The bottom section of the rear garden to the appeal property falls away to the south where it adjoins the end section of the long rear garden to 36 Brownlow Road (No.36). As stated by the appellant the southeast corner of the rear garden of the appeal site was some 0.4 metres lower than the main part of the appeal site garden. This fall increased to some 1.8 metres in the southwest corner of the rear garden, where it meets the bottom corner of the rear garden at No.10.
7. Collectively, policies SP4.1 and DM10 of the Croydon Local Plan 2018 (LP) and policies GC1, GC2, CG3 and D4 of The London Plan 2021 seek to ensure that new development is well designed; informed by distinctive qualities including topography; and respects and enhances local character. Strong and inclusive communities should be promoted and the potential of sites should be optimised. Proposals should also deliver appropriate outlook and should not result in a significant loss of existing sunlight, daylight or privacy for the occupiers of adjacent properties. Regarding private and communal gardens, the Croydon Amenity and Suburban Design Guide 2019 (SPD), encourages the retention and improvement of biodiversity and that retaining walls within sloping sites do not impact on the amenity of the occupiers of neighbouring properties.
8. The Council refers to the advice in the SPD which requires a minimum distance of 18 metres between back-to-back housing to protect privacy within the first 10 metres of garden area immediately to the rear of the dwellings. Whilst not specifically relevant to the proposal, it highlights that the area closest to the rear of a dwelling is seen as being of particular importance in relation to privacy.
9. LP Policy SP4.7 & SP4.8 relate to the protection and enhancement of the public realm. As the proposed works would not be visible from the public realm, the proposal would not conflict with them. Policy SP6 deals with climate change and seeks to reduce greenhouse gas emissions and landfill waste.
10. These policies and advice are consistent with paragraphs 119, 126, 130 & 134, of the National Planning Policy Framework 2021 (The Framework).
11. As indicated above there are numerous walls in the locality, including retaining walls, which are typically constructed from brick, stone or finished with render. Some of the existing boundary walls and fences are surmounted with trellising and railings, as well as adjacent dense mature screen planting. However, all of the solid fences and walls I observed during my site visit were materially lower than the proposed fence. For instance, the fence along the western boundary of the garden at No.10 is in excess of three metres in height. However, the upper part of this fence comprises trellis and sits against a garden hedge at 38 Brownlow Road.

12. The proposed retaining wall would be constructed from concrete blocks, which are visually utilitarian and out of keeping with the rear garden environment and the area. Although most of the wall would be screened from the rear garden of the appeal property, where it could be seen the proposed wall would have a negative impact on the rear garden and the setting of the dwelling. This harm would be minimal and the appellant could address it through landscaping.
13. The proposed wall would be sited a short distance to the front of the existing boundary fences between the appeal property, No.10 and No.136. The appellant has stated that the proposed wall would be fully screened from the garden at No.10 by the existing boundary fence. However, this is on the basis that the height of the existing boundary fence is at least 1.8 metres above the ground level of the wall.
14. The occupiers of No.10 have confirmed that the boundary fence is 1.5 metres in height, although I noted that some of their fencing is slightly elevated above the ground level as it follows the slope of the land. I also noted that the end section of the recently constructed wall projects above the existing boundary fence. Due to the gap between the existing boundary fence and the proposed wall, the top of the wall could well be clearly visible from parts of the elevated section of the rear garden at No.10. Where it could be seen the block wall would be visually stark and unsightly, due to its colour and finish.
15. The proposed retaining wall would be lower than the boundary fence at No.36 and there is tall, dense planting immediately beyond the existing boundary fence. Accordingly, the retaining wall would not be visible from the adjacent rear garden at No.36.
16. The proposed fence would project some 1.5 metres above the proposed retaining wall. Together, they would be at least 1.8 metres higher than the southeast corner of the existing boundary fence along the boundary with No.10. The proposed fence between the appeal property and No.10 would be approximately five metres in length, although in excess of one metre of the proposed fence would be fully screened from No.10 by the existing boundary fence, provided the top of the existing fence is at least 1.8 metres high. Visibility of the remaining fence would range from 0.1 to 1.5 metres in height, with the highest point being at the bottom of the garden and adjacent to the tall mature planting within the garden at No.36. The fence would also be materially taller than the existing rear boundary fence T No.10 and the junction between the two fences would be visually unbalanced and awkward.
17. For these reasons, the proposed combined wall and fence would have a visually degrading impact and would be out of keeping with the character and appearance of the rear garden environment. This harm would outweigh the benefits for the appellant and his family that would result from the proposal and those resulting from the on-site recycling of spoil from the recent on-site building works. This harm is not something that could be satisfactorily addressed through the imposition of conditions. As stated in paragraph 134 of The Framework, development that is not well designed should be refused.
18. I conclude on the first main issue that the proposal would unacceptably harm the character and appearance of the area. Accordingly, it would conflict with

LP Policies SP4.1 & GM10, Policies GC1, GC2, CG3 and D4 of The London Plan and the SPD.

Living conditions

19. During my site visit I noted a number of tall walls and fences that had been extended through the insertion of trellising and railings above them. This includes the western boundary to No.10 which has trellis work above the existing boundary fence. To the rear of this trellis fence is a mature hedge. The trellising facilitates views and light through it and is visually soft. Even during the summer months, when the hedge is in full leaf light would still filter through it and hedge would be both visually soft and contribute to the verdant character and appearance of the back garden environment.
20. Notwithstanding this, it was clear from my site visit that the existing fencing and hedges along the southern and western boundary of No.10 have an enclosing impact of the rear section of the garden to No.10. The adjacent flank wall and roof of the garage within the appeal site similarly has an enclosing impact on the outlook from the rear of the dwelling and its patio area.
21. The proposed wall and vertical close boarded fence would be 3.3 metres in height in the southeast corner of the rear garden at No.10. Whilst this height would reduce as the garden level rises to the north, it would nonetheless materially add to the sense of enclosure within the rear garden at No.10.
22. Due to its combined height and solid appearance the fencing would form an uncharacteristic and visually stark feature in the outlook from the rear of the dwelling, patio area and garden area at No.10. The junction between the proposed fence and the existing lower rear boundary fence at No.10 would appear awkward and would serve to emphasise the height of the proposed fence. The overall impact would be exacerbated by the resultant loss of daylight within the adjacent rear garden area.
23. For these reasons, the proposed wall and fence would have a materially harmful impact on the living conditions of the occupiers of No.10. Any glimpses of the proposed plain blockwork wall between the existing fence and the proposed fence would appear unsightly and would exacerbate the harm caused by the proposal.
24. The proposed infilling, in itself, would not be evident from the rear garden and patio at No.10. Whilst it would be noticeable from the rear first floor windows at No.10, it would appear as an integral part of that garden and would not be prominent or visually intrusive.
25. As stated by the appellant the proposed fence would be 1.8 metres higher than the proposed ground level. This would be sufficient to prevent direct inter-looking between the adjacent gardens. Whilst the upper part of the dwelling at No.10 would be visible from the rear garden of the appeal property, this would be the case if the original ground levels and boundary fence were retained. Potentially the proposal could slightly improve privacy within the patio area at No.10, due to the higher level of the proposed fence.
26. Whilst I note the concerns expressed relating to drainage, the Party Wall Act, structural stability and the encroachment of the existing wall's foundations onto private land, these are matters that are either private or can be dealt with

under other legislation. The works associated with the construction of a new rear patio fall outside the scope of this appeal.

27. For these reasons I conclude on the second main issue that the proposal would unacceptably harm the living conditions of the occupiers of No.10 due to its stark and uncharacteristic visual impact and associated loss of daylight. Accordingly, the proposal would conflict with LP Policy DM10 and the SPD.

Conclusion

28. Whilst I have found in favour of the appellant on a number of points, the conclusions on both main issues amount to compelling reasons for dismissing this appeal.

Elizabeth Lawrence

INSPECTOR