



---

## Appeal Decision

Site visit made on 2 March 2023

**by G Ellis BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> March 2023**

---

### **Appeal Ref: APP/L5240/D/23/3314926 25 Hartley Hill, Purley, Surrey CR8 4EP**

- 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 Francisco Javier Gonzalez Novoa against the decision of the London Borough of Croydon.
  - The application Ref: 22/03927/HSE, dated 22 September 2022, was refused by notice dated 16 November 2022.
  - The development proposed is for the rear terraced garden raised level area increased by 4.11m with a new retaining wall.
- 

### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues are the effect of the proposal on:- 1) the character and appearance of the area; and 2) the living conditions of the occupiers of the neighbouring properties, with specific regard to overlooking.

### **Reasons**

#### *Character and Appearance*

3. The properties along Hartley Hill are on a steep gradient. Those to the west, which includes No.25, are set down some distance from the road and are single-storey to the front but extend over two or three floors to the rear. Many of the dwellings have a range of balconies and terraces to create level and defined outdoor spaces. These extend a limited distance from the dwelling, and the lengthy rear gardens are predominantly sloping and relatively open.
4. As seen on my site visit, work to change the garden levels has commenced which the appellant explains was through utilising materials from the excavations for the recent single-storey rear extension. The proposal would create a raised garden area which would project approximately 12m from the rear of the dwelling, facilitated by a 1.5m high retaining wall. From the plans this is an extension to an existing patio area, however, this additional section raises the garden level significantly compared to that of the neighbours on either side.
5. The Council indicate that some properties have introduced terracing to their gardens and the appellant has provided some examples, but there is nothing before me, nor from what I saw on site, that is directly comparable to the

appeal proposal in relation to its scale, position, and height differential. The proposal dramatically changes the character of the site, and its intrusive form would be exacerbated by the proposed boundary treatments which due to its siting would extend to a considerable height. This would be both visually prominent and out of keeping with the prevailing character of the area where generally boundary treatments, apart from those to the area immediately adjacent to the dwelling, are low-level hedges and follow the natural gradient.

#### *Neighbours - Overlooking*

6. Due to the difference in levels, there are opportunities to overlook the neighbours' gardens from the dwellings and there is a mutual level of intervisibility between the gardens. Nonetheless, the extent of the raised garden would effectively create a platform which exceeds the height of the existing boundary treatment from which there would be opportunities to look down over the neighbours' gardens. This would appreciably increase the potential for overlooking from a different and elevated position, resulting in an increased loss of privacy for the neighbours.
7. While the appellant suggests proposed boundary planting/screening and a pergola would provide privacy to both the appeal property and the neighbours, the height from the neighbours' side would be significant. Furthermore, extensive boundary treatments and concealment are not a feature of the area and the need only arises from the change in levels.
8. Inevitably the gradient provides some challenges, but from what I could see the gardens to properties along Hartley Hill appeared to be well maintained and utilised in different ways. In this case, it is the extent and scale of the proposal which would be harmful, fundamentally changing the topography which is the defining feature of the area and intruding on the privacy of the occupiers of the neighbouring properties.
9. For these reasons, the development would have an unacceptable effect on the character and appearance of the area. Thus, it would conflict with Policy DM10 of the Croydon Local Plan 2018, and Policy D4 of The London Plan (March 2021) which amongst other things, ensure development is of high quality, respects and enhances local character, and protects the amenities of the occupiers of adjoining properties including from direct overlooking of gardens.

#### *Other Matters*

10. I understand the appellant's desire to create a larger flat area which would aid usage and provide a contained private space. However, these private benefits to the occupiers of No.25 do not provide material considerations that would outweigh the conflict with the development plan.

#### **Conclusion**

11. For the reasons set out and having regard to all other matters raised the appeal is dismissed.

*G Ellis*

INSPECTOR