



Appeal Decision

Site visit made on 13th October 2023

by Megan Thomas K.C. Barrister-at-Law

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 07 November 2023.

Appeal Ref: APP/L5240/W/23/3324737

Walden, 128 Coombe Lane, Croydon CR0 5RF

- 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 Albino Serrao Alexandre against the decision of the London Borough of Croydon.
 - The application Ref.22/03326/FUL, dated 5 August 2022, was refused by notice dated 9 February 2023.
 - The development proposed is the demolition of a garage and the construction of two semi-detached houses and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Appellants submitted a revised site plan (drawing number 6793-PL102 Rev A) as part of their appeal documentation. I do not consider it brings material revisions when compared to the site plan on which the planning application was determined. I also note that it has been available to the public for several months. For these reasons, I do not consider anyone is prejudiced if I accept this revised plan as a substitute site plan. I have therefore treated it as one of the submitted plans on which to determine the appeal.

Main Issues

3. The main issues in the appeal are the effect of the proposal on the living conditions of occupants of 126, 128 & 130 Coombe Lane with regard to privacy, the effect of the proposal on the character and appearance of the area, the impact on highway and pedestrian safety and whether a contribution to sustainable transport initiatives should be secured by legal agreement.

Reasons

Living conditions of occupants of 126, 128 and 130 Coombe Lane

4. 128 Coombe Lane is situated on the south side of Coombe Lane. It is a detached two storey house with an attached garage on its west side. 126 is

located to its western side and 130 to its eastern side. Many of the nearby houses have long rear gardens with woods beyond. 126, 128 and 130 step down slightly from each other when viewed from their front elevations with no.126 being the lowest of the three. The area is characterised predominantly by large detached and semi-detached dwellings of mostly two storeys with pitched roofs with relatively large gardens. The houses are generally set back from Coombe Lane providing off street parking for more than one vehicle.

5. Coombe Lane is a classified road (A212). There is a tram stop located close to the appeal site.
6. The proposed development includes demolishing the flank garage of no.128 and erecting a pair of three-bedroomed semi-detached dwellings towards the rear of the garden. The new dwellings would be north-facing, facing the rear of no.128 and each would have a first floor balcony on the front elevation. The access off Coombe Lane would be shared with the host dwelling. There would be hardstanding near the western side of the rear garden and a parking forecourt for the new dwellings and a refuse bin store along the access road near the rear of 128. 128 would have a reduced-size rear garden. Each of the new dwellings would have a rear garden.
7. The proposed dwellings would be positioned approximately 31m from the rear elevation of the host property and a similar distance from the rear elevations of 126 and 130 Coombe Lane. I noted on my site visit that there was some existing mutual overlooking of rear gardens between neighbours, however, views from the proposed first floor balconies would allow a wide field of vision from an elevated position. This would be notably worse for maintaining neighbour privacy than existing overlooking from, for example, existing first floor rear windows or indeed higher windows at no.130. The rear gardens of nos 126 and 130 are deep and extend similar distances to the appeal site garden. Views from the proposed balconies would include easy and close views of those rear gardens. They would also allow views into the retained rear garden of no.128 along with a strong perception of being overlooked for the occupants of 128 when on their veranda. Views into the rear gardens of 126, 128 and 130 would be intrusive and unacceptable.
8. On this issue, I conclude that the proposed development would result in unacceptable living conditions for the occupants of 126, 128 and 130 Coombe Lane by reason of loss of privacy, contrary to policy DM10 of the Croydon Local Plan 2018.

Character and appearance of the area

9. The character of the rear gardens on and around the appeal site are verdant with a backdrop of mature trees making up a wooded area that extends to the rear gardens of the dwellings along Ballards Way to the south. There are trees and vegetation within Coombe Lane gardens too. The sense of greenery can be appreciated from Coombe Lane looking south. The proposal would involve demolition of the attached garage at no.128 and the introduction of extensive new hardstanding reaching deep into the rear garden of 128 and covering almost the full width of the appeal site at the point where the new front forecourt for the two dwellings is proposed. The change in appearance would be stark and unsympathetic and could not be overcome by the imposition of a

landscaping condition. The extensive new hardstanding proposed on the appeal site and the loss of some important trees in the rear garden of no.128 would be unacceptably detrimental to the character and appearance of the area.

10. Turning to the scale and design of the proposed two dwellings, whilst the balconies and orientation are not sympathetic, the scale is sufficiently subservient to 128 (at its proposed reduced size) and whilst the design is rather more contemporary I do not consider it to be sufficiently out of character or incongruous with existing dwellings to warrant refusal of permission on that basis. I have noted policy DM10.4(e) which indicates that in the case of development in the grounds of an existing building which is retained, no less than half or 200 sqm, whichever is the smaller, of the existing garden area should be retained for the host property after the subdivision of the garden. Half of the existing rear garden of no.128 is not retained but if the remaining dedicated front forecourt of 128 is included as garden area then the policy is not breached. I consider that the rear garden area retained for the occupants of no.128 would be an appropriate size for private amenity for a dwelling of the size proposed to be retained.
11. Part of the appeal site had the benefit of a Permission in Principle ('PIP') (ref 20/01648/PIP) dated 15 July 2020 for between 3 and 7 residential units. It was made by way of application for permission in principle. The PIP site area was at the rear of 126 and 128 Coombe Lane, in their rear gardens accessed in a similar way as the current appeal scheme from Coombe Lane. The prescribed period in which a Technical Details Consent could be determined ran to 15 July 2023. It appears that no Technical Details Consent has been applied for or determined in that period. The PIP has in effect lapsed. Nevertheless, I have borne in mind the fact that it was granted in the recent past by the Council. I have also borne in mind that the Council gave favourable pre-application advice to a 19 apartment scheme involving demolishing 124, 126 Coombe Lane and the garage to 128 Coombe Lane and that national policy encourages the effective and efficient use of land particularly in an urban area.
12. Consequently, when weighing up all these factors in relation to the proposal I conclude that the extensive new hardstanding proposed on the appeal site and the loss of some important trees in the rear garden of no.128 would unacceptably harm the character and appearance of the area. The proposed scheme would fail to integrate successfully with the surrounding natural environment and it would be contrary to policy D4 of the London Plan 2021 and policies SP4 and DM10.1 of the Croydon Local Plan 2018.

Highway and Pedestrian Safety

13. There is a pedestrian crossing and zig zag lines close to the existing access of the site. The proposed access to the new dwellings to the rear of no.128 would be shared with no.128. The access would be relocated slightly as shown on the revised site plan and in the Highways appeal evidence, and would be able to attain reasonable visibility splays and sightlines along Coombe Lane. This would involve a vehicle being marginally forward and encroaching on the footway in front of the appeal site, however, it is approximately 3m deep and I do not consider, in the particular circumstances of this case, that pedestrian safety would be unduly compromised. I have borne in mind in its favour that it is an existing access. In terms of safe and suitable access and egress and turning

within the site for private vehicles and a common delivery vehicle, the swept path analysis demonstrates adequate manoeuvring space. Vehicles would be able to exit in a forward gear onto the classified road. There is a parking-standard-compliant one vehicle parking space per new residential unit, each with an EV charging point. No disabled parking bay needs to be provided in order to make the proposal acceptable in parking terms.

14. The access drive as it passes the western side of no.128 would be about 3.2m wide which is sufficient to permit passage for all vehicles up to and including a fire tender. One vehicle would have to wait if another was approaching the 'pinchpoint' on the private accessway but there is sufficient visibility for drivers moving north and south to enable one to wait whilst the other exits or enters. The arrangement would be acceptable and the accessway given its average width could safely be shared by pedestrians given that only two properties are envisaged in the scheme and low pedestrian movements expected.
15. The proposed location for refuse bins is just off the line of the accessway near the rear of no.128. Residents would have to wheel bins to the highway edge on refuse collection day. I do not consider the distance is too large for that to be workable. A bulky waste store is shown near the public footway just off the line of the accessway. I do not consider there is a good reason to refuse permission on the basis of inadequate refuse storage facilities or refuse collection.
16. On this issue, I conclude that the proposed development would not harm highway or pedestrian safety and would have adequate refuse facilities. There would be no material conflict with policies T4, T5 or T6.1 of the London Plan 2021 or policies SP8, DM13, DM29 or DM30 of the Croydon Local Plan 2018.

Financial Contributions to Sustainable Transport

17. The appeal proposals would bring increased vehicle and pedestrian movements to the surrounding roads and pavements increasing pressure on the traffic-congested network and public transport options found in the Borough. Policy encourages proportionate financial contributions to sustainable transport initiatives and in particular policy DM29 promotes measures to increase the use of public transport, cycling and walking. On the evidence before me, it appears that there is the need for a legal agreement which secures a financial contribution to the provision of sustainable transport options (examples of which might be car clubs with EVCPs or removal of residential parking permit entitlement for new residential units, or cycling improvements). The three tests in regulation 122(2) of the Community Infrastructure Levy Regulations 2010 are satisfied. Whilst a draft of a s.106 agreement has been submitted, there is no signed or dated deed before me which ensures contributions are legally secured prior to the grant of planning permission.
18. In the circumstances, the proposal cannot be granted permission (a condition would not be appropriate in these circumstances). It would fail to mitigate harmful impacts in the vicinity and would be unacceptable in planning terms. There is no effective legal agreement. The proposal therefore would be contrary to policy T4 of the London Plan 2021 and policies SP8 and DM29 of the Croydon Local Plan 2018.

Conclusion

19. Having taken into account all representations made, for the reasons given above, I dismiss the appeal.

Megan Thomas K.C.

INSPECTOR