



Appeal Decision

Site visit made on 6 January 2025

by **Les Greenwood MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 January 2025

Appeal Ref: APP/L5240/D/24/3347590

50 The Netherlands, Coulsdon, Croydon CR5 1ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Alphie Valentine against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 23/03880/HSE.
 - The development proposed is a basement (connected via garage) for use of wine cellar, store and home office and landscaping of the rear garden, by way of levelling banked garden at stepped levels (retrospective application).
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The description of proposed development set out above is taken from the application form. The basement and landscaping works have, as I saw at my site visit, already been implemented. The basement sits underneath a previously approved side/rear extension. The Council included this extension within a revised description of the development on its decision notice. As the basement appears to be part and parcel of that extension, and these were presumably built together as one project, I find the Council's description to be more accurate. This is a matter, however, that cannot be altered in the absence of agreement by the appellant, who states clearly that the description should not be changed. I can therefore only consider the basement and landscaping works in this decision.
3. I also saw that an outbuilding has been built in the back garden of the house, but that is likewise not part of the appeal proposal.
4. The appellant has submitted additional technical information regarding surface water drainage with the appeal. This matter is dealt with in the third main issue, below.
5. A neighbour comments that the site is in a Conservation Area, but the Council confirms that this is not the case.
6. A revised version of the National Planning Policy Framework was published on 12 December 2024, during consideration of the appeal. Having regard to the changes in the Framework and to the comparatively minor scale and nature of this appeal proposal, I consider that further consultation on this matter is not necessary.

Main Issues

7. The main issues are the effects of the proposal on:

- i) The character and appearance of the house and the local area;
- ii) Living conditions at neighbouring properties, in terms of privacy, outlook and disturbance; and
- iii) The risk of surface water flooding in the local area.

Reasons

Character and appearance

- 8. 50 The Netherlands is a sizable detached house in a residential area of similar properties. It has a large garden that slopes up steeply at the back, with a row of mature trees at the top. The Council raises no objection to the basement, which has no visual impact. Its concern is about the landscaping works to the rear which include brick retaining walls, levelled areas, glass balustrades, decking, steps and a hard surfaced sports court.
- 9. These works take up almost all of the back garden, going beyond the amount of works normally expected in a domestic situation. The retaining walls especially can be seen in some views from adjacent streets – The Netherlands and Wilhelmina Avenue. Although the works are extensive, however, the terracing of a sloping back garden with retaining walls is not an unusual or unexpected means of making such a steep garden more usable. The brick walls are of high quality and the sports court surfacing is not readily visible from most public vantage points. The use of cut and fill for the terracing means that average ground levels remain similar.
- 10. The line of trees at the back of the site is the most important landscape feature here, and these have been retained. This helps to maintain the suburban character of the estate, despite the more urban character of the works. I note that the Council's Tree Team raises no objection to this proposal and could pursue the appellant to plant replacements for other felled trees separately, since these were protected by a Tree Preservation Order.
- 11. Lighting of the sports court could potentially be intrusive on local character. This matter could be dealt with by condition requiring lighting details if the appeal were to be approved.
- 12. I conclude that the proposal does not harm the character or appearance of the house or the local area. It accords in this respect with The London Plan 2021 (TLP) policy D4 and Croydon Local Plan 2018 (CLP) policies SP4 and DM10, which seek high quality design that responds to the existing character of a place.

Living conditions

- 13. The cut and fill terracing means that some parts of the back garden are significantly higher (by more than a metre in some places) and some lower. The raised areas give some improved views towards the neighbouring back gardens at 48 The Netherlands and 55 Wilhelmina Avenue, but any overlooking is reasonably limited by fencing and the spacious layout, with the neighbouring houses set and angled away from No 50. Those neighbouring properties also retain wide outlooks which are little affected by the low walls and terracing.

14. The sports court would likely enable more intensive use of the garden but this is a single family house so such use should not cause undue disturbance to neighbours. Separate legislation regarding noise nuisances would continue to apply.
15. I conclude that the proposal would not harm living conditions at neighbouring properties. It also accords in this respect with CLP policies SP4 and DM10, which aim to ensure that the amenity of occupiers of adjoining buildings is protected, including in relation to overlooking of habitable rooms and private outdoor space.

Flood risk

16. Environment Agency flood risk mapping confirms that the street to the front of No 50 is at significant risk of flooding from surface water run-off. The introduction of substantial areas of hard surfacing, including the sports court, wide steps and decking could result in increased run-off from the site, exacerbating the existing flooding issues in the street. The sports court is covered by an artificial grass-type surface. Information submitted with the appeal indicates that this is a permeable surface. I note, however, that the application form specifies tarmac surfacing. Other hard surfacing on the site, the wide steps in particular, appear to be impermeable so would generate some run-off.
17. The appellant also submitted a new Sustainable Drainage Assessment (SDA) with the appeal. This recommends that some 23 cubic metres of soakaway should be installed under the sports court to attenuate surface water prior to infiltrating into the ground, with the aim of dealing with run-off during a 1 in 100 year plus 40% climate change event. The SDA does go on to say, however, that the mitigation details are subject to confirmation by infiltration testing and groundwater monitoring, so they might need to change.
18. The Government's *Planning Appeals: Procedural Guide* advises that appellant's submissions should not normally include new evidence or additional technical data not previously seen by the local planning authority and interested parties at the application stage. This is doubly important in householder appeal cases like this, where there is no opportunity to respond to additional submissions. In this case, the changed/additional surfacing materials details and the SDA both represent new information that would require additional consultations. I therefore give them only limited weight. The SDA does not, in any case, come to a firm conclusion regarding surface water drainage and flood risk mitigation.
19. The amount of hard surfacing introduced in this case is so extensive, with potential drainage to an area of flood risk, that special care is needed to ensure that surface water run-off is dealt with properly. I find that it has not been adequately demonstrated that the proposal would not cause an undue increase in off-site flooding within the adjacent flood risk area. It therefore conflicts in this respect with the relevant provisions of TLP policies SI12 and SI13 and CLP policy DM25, which aim to minimise and mitigate flood risk through sustainable drainage measures.

Other matters

20. I have taken account of all other issues raised. In particular I note the concerns about the potential structural impact of the basement development on the neighbouring house. The basement is already in place, however, and this matter

can potentially be dealt with under other legislation. I also note that there is some local support for the revitalisation of the property carried out by the appellant.

Conclusion

21. Although I have found in favour of the appellant in respect of 2 of the main issues, my concerns regarding surface water drainage are sufficiently compelling for me to find that the proposal conflicts with the development plan, taken as a whole. For the reasons set out above, I conclude that the appeal should not succeed.

Les Greenwood

INSPECTOR