



APPEAL STATEMENT

Erection of steel balcony to rear elevation with composite decking and a staircase down towards rear garden

Application No. 23/03398/HSE

44 Ambleside Gardens
South Croydon CR2 8SF

Date: 27 November 2023

1. Introduction

This Appeal Statement has been prepared Chartered Structural Engineer Dr J Li to support an appeal against the decision of the London Borough of Croydon to refuse planning permission for a proposed rear balcony & staircase at 44 Ambleside Gardens, in South Croydon.

Following a description of the site and surrounding area, the report will consider the planning history, set out an overview of relevant planning policy and outline the case for the appellant.

It will be demonstrated that the proposal complies with relevant local and national policies and that planning permission should therefore be granted.

2. Background

On 05 September 2023, the appellant submitted an application to the London Borough of Croydon (reference: 23/03398/HSE) for the following development:

Erection of steel balcony to rear elevation with composite decking and a staircase down towards rear garden. Replacement of existing rear window to french door for balcony access.

On 21 November 2023, the council notified the appellant that the application had been refused, for the following reasons:

- 1. By reason of its scale, bulk, massing, and design, the proposed development would dominate and detract from the appearance of the existing building, being an incongruous feature which would be out of keeping with the character and appearance of the property and the wider area, and would not be of high quality design, which would conflict with Policies SP4, DM10 of the Croydon Local Plan 2018 and Policy D3 of the London Plan (2021).*
- 2. The proposal is considered to have an adverse impact on neighbouring amenity by reason of loss of privacy and overlooking. As such, the proposal is contrary to Policies SP4.1, SP4.2 and DM10.6 of the Croydon Local Plan and Policies D3 and D6 of the London Plan.*

3. Site Description

The appeal site comprises a two-storey, detached house located on the southern side of Ambleside Gardens, looking onto a bend in the road. It is mid- to late-twentieth century in design, with a front gable, brick elevations with white rendered panels and a dual-pitched, tiled roof. There is a rear conservatory extension, a front porch addition and an integral garage on the eastern side of the building, angled along the boundary. The house also has a two-storey side extension with a hipped roof, set back from the front elevation.

The house sits above the road and on a wedge-shaped site with front, side and rear gardens. The image in figure 1, below, shows the property, viewed from the street today.



Figure 1 Image of the appeal property, viewed from the street

The house is one of a pair of matching detached properties built on this corner (No. 42 and No. 44). Most of the other houses on the street are semi-detached houses of a different architectural design.

The immediate surrounding area is largely residential in character, made up of regular rows of twentieth-century, semi-detached housing with a simple form and architectural design. A number of the properties have been altered and extended in various ways, including with two-storey side extensions, contributing some diversity to the street scene.

The application building is not listed and does not lie within the Green Belt or within a designated conservation area.

4. Relevant Planning History & Appeal Proposal

On 7 December 2000, the council approved an application for the demolition of the garage and the erection of a new two-storey side extension (reference: 00/02752/P). This permission was not implemented and therefore expired.

On 11 October 2001, the council approved an application for the construction of a rear conservatory extension (reference: 01/02291/P). This permission was implemented.

On 04 October 2022, the council refused an application for the demolition of existing garage/shed, erection of two storey side extension and single storey front extension (reference: 22/02103/HSE). This application was allowed on appeal (reference: 22/00220/HREF). The permission was implemented, and the building work has now completed.

The current proposal is to construct a steel balcony (2m by 3m) to rear elevation with composite decking and a staircase down towards rear garden. An existing rear window is to be changed to a French door for balcony access. High quality aluminium handrails and glass balustrades meeting current regulations are proposed for the balcony. Two side glass balustrades are of frosted glazing panels for privacy.

The applicant has consulted both adjoining owner/occupiers (No. 42, and No. 46) prior to filing of the application. Both neighbours were happy with the proposals and expressed no concerns on overlooking or loss of light. A total of 9 adjoining owner/occupiers have been notified of the application by letter and a site notice was erected immediately outside of the site. No objection was received during the consultation period.

5. Planning Policy

The development plan for the area comprises the Croydon Local Plan, adopted in 2018, and the London Plan, 2021. According to the Decision Notice, the application was refused on the basis of policies SP4.1, SP4.2 and DM10.6 of the Local Plan and policies D3 and D6 of the London Plan.

Policy SP4.1 requires that all new development exhibit a high quality of design and appearance. Policy SP4.2 requires that development “be informed by the distinctive qualities, identity, topography and opportunities” of the area for which it is proposed.

Policy DM10 (Design and character) requires that development is appropriate in terms of its “scale, height, massing, and density”.

DM10.6 requires that “the amenity of the occupiers of adjoining buildings are protected” in terms of a loss of privacy, daylight and sunlight.

Policy D3 (Optimising site capacity through the design-led approach) of the London Plan seeks to “make the best use of land by following a design-led approach the optimises the capacity of sites”. Part C of the policy states that the “incremental densification of sites should be actively encouraged”. The policy goes on to state that development should represent a high quality of design and respect and reflect the character of the area. It should also protect the residential amenity of close neighbours.

Policy D6 of the new London Plan requires that all new dwellings provide a high quality of living accommodation. It relates primarily to applications proposing entirely new dwellings and it is not clear that it is relevant to the appeal proposal.

The National Planning Policy Framework (NPPF) sets out the government’s planning policies for England and how they should be applied. It identifies a presumption in favour of sustainable development. Development is sustainable when it meets the economic, social and environmental needs of a community.

Paragraph 11(c) requires that decision-makers approve “development proposals that accord with an up-to-date development plan without delay”. Where policies are absent or out of date, permission should be granted unless:

“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

According to paragraph 38:

“Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.”

Paragraph 126 states that:

“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

6. Grounds of Appeal/Statement of Case

In this Section, we outline the common ground that the Council has found the application to be acceptable/not objected to. We subsequently outline and assess the Council's reasons for refusal against the key policy considerations.

APPEAL GROUND 1

As stated on the Decision Notice, the Council's first reason for refusal is:

'The effect on the character of the building and the visual amenity of the street scene'

With further detailed arguments extracted below:

'...it is noted that this is not a general characteristic of the area and that there are no examples of first-floor rear balconies which have been erected within the immediate area on the adjoining detached or semi-detached properties. The proposed development would dominate and detract from the appearance of the existing building, being an imposing and highly visible form to integrate into the street scene, townscape and the existing pattern of development, and not of high quality design. An erection of a rear steel balcony and stairs structure would be an incongruous addition to the existing building that would not be in keeping with the character of the area which is exacerbated through the use of steel materials.'

Our appeal grounds are:

- The proposed balcony is only 3m wide which is a very insignificant addition to the rear elevation which is 13m wide.
- It is also subordinate in a way that it sits within the corner surrounded by the existing conservatory roof and the 3.6m wide newly built two story side extension.
- The proposed balcony and staircase are completely invisible from the street. It is also invisible from all rear adjoining occupiers' gardens due to the lower site level of the applicant's property and the tall hedges at the boundaries.
- The proposed balcony and staircase are hardly visible from the immediate adjoining neighbour (No. 46)'s garden, as the applicant's property angles away from the shared boundary.
- The proposed balcony and staircase can only be seen from the rear half part of the immediate adjoining neighbour (No. 42)'s garden, which is at least 15m distance away. It is unlikely to have an unacceptable impact in terms of a loss of outlook or concerns of overlooking.

- The proposed aluminium and glass balustrades are of a premium grade design, often seen in high quality flats or commercial premises. The proposal will offer an uncompromisingly high-end result.
- The proposed balcony decking and staircase treads are composite boards which offers excellent, low maintenance alternative to timber, and they are both aesthetically pleasing and eco-friendly.
- There are quite a lot of steel elements in the vicinity, for instance, No. 46's side gate, No. 48's steel balustrade in the front yard. Steel as a fully recyclable and ever more popular building material, it should not be discouraged to use anyway nor be part of the reason for the refusal.

APPEAL GROUND 2

As stated on the Decision Notice, the Council's second reason for refusal is:

'Impact on the adjoining occupiers'

With further detailed arguments extracted below:

'Due to the location of the terrace and balcony, both neighbouring dwellings are subject to direct overlooking, within the first 10m of the neighbouring gardens'
'There would be adverse impacts on the living conditions of neighbours at No 46'

Our appeal grounds are:

- The proposed balcony and staircase are hardly visible from the immediate adjoining neighbour (No. 46)'s garden, as the applicant's property angles away from the shared boundary. The photo below was taken from the proposed balcony location looking towards the neighbour's garden.



Figure 2 View from the proposed balcony location towards No. 46's garden

- The proposed balcony and staircase can only be seen from the rear half part of the immediate adjoining neighbour (No. 42)'s garden, which is at least 15m distance away. It is unlikely to have an unacceptable impact in terms of a loss of outlook or concerns of overlooking. The photo below was taken from the proposed balcony location looking towards the neighbour's garden.



Figure 3 View from the proposed balcony location towards No. 42's garden

- The proposed balcony and staircase are **completely invisible from all rear adjoining occupiers' gardens** due to the lower site level of the applicant's property and the tall hedges at the boundaries. The photo below was taken from the proposed balcony location looking towards rear neighbour's garden.



Figure 4 View from the proposed balcony location towards rear neighbour's garden

APPEAL GROUND 3

As stated on the Decision Notice, the Council's third reason for refusal is:

'Quality of Accommodation'

With further detailed arguments extracted below:

'the terrace would not offer a significant benefit to the occupiers of the dwelling which the rear garden would not already deliver in terms of providing a high-quality private amenity space'

Our appeal grounds are:

- The balcony and staircase improve the fire evacuation strategy of the 1st floor as they enable a direct and safe escape route to the garden.
- The balcony and staircase improve the current layout as they offer a second route to the garden. The current plan requires traveling from the kitchen/dining and the conservatory to get to the rear garden.
- The steel balcony functions as a canopy/awning for the ground floor kitchen and the garden tap & hardstanding area.

On the above basis, we consider the proposals will improve the quality of accommodation.

APPEAL GROUND 4

As stated on the Decision Notice, the Council's last reason for refusal is:

'Fire Safety'

With further detailed arguments extracted below:

'No details have been submitted in relation to fire safety and therefore the application fails to sufficiently address the requisite fire safety measures/procedures.'

Our appeal reason is:

We have submitted the 'Fire Safety, Reasonable Exception Statement, Form 4' per the Local Plan (2021) Policy D12, on 05 October 2023, directly to the case officer James Baddeley via email. This form is also shown on the website under 'Planning Application Documents' (a screenshot below):

Planning – Planning Application Documents

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7. Conclusions

The council is concerned that the development is incongruous, will harm the character and appearance of the area. It is also concerned about a possible impact on living conditions at the neighbouring property, number 46.

The proposals are invisible from the street. The property is angled away from the side boundary with number 46 and set a reasonable distance away from the closest part of the neighbour's garden. The gardens are south facing and there is intervening screening. There is no likely harm to this neighbour in terms of a loss of light, outlook or general amenity.

The proposals are of high quality and eco-friendly design, and will deliver a number of improvements to the property and benefits to the occupiers.

For these reasons, the appellant contends that the proposal represents sustainable development of the kind encouraged by the NPPF and the inspector is respectfully requested to allow the appeal.