



---

# Appeal Decision

Site visit made on 29 June 2022

**by M Chalk BSc (Hons) MSc MRTPI**

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

**Decision date: 20<sup>th</sup> July 2022**

---

**Appeal Ref: APP/A5270/W/22/3292281**

**26 Creswick Road, Acton, W3 9HF**

- 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 Mrs Ireen Esmann against the decision of London Borough of Ealing.
  - The application Ref 214344FUL, dated 23 June 2021, was refused by notice dated 17 August 2021.
  - The development proposed is construction of a single storey, with basement level, dwelling house following demolition of existing rear garden outbuildings.
- 

## Decision

1. The appeal is allowed, and planning permission is granted for construction of a single storey, with basement level, dwelling house following demolition of existing rear garden outbuildings at 26 Creswick Road, Acton, W3 9HF in accordance with the terms of the application, Ref 214344FUL, dated 23 June 2021, subject to the conditions set out in the attached schedule.

## Preliminary Matters

2. I have taken the description of development from the appeal form as it is the most precise description of the proposal.

## Main Issues

3. The main issues are:
  - The effect of the proposed development on the character and appearance of the area; and,
  - The effect on the living conditions of the occupiers of No 26 Creswick Road.

## Reasons

### *Character and appearance*

4. The proposed dwelling would replace the existing studio building and shed towards the rear of the site. It would occupy a similar footprint and its roof would be a comparable height above ground level to that of the studio. The development would also include substantial excavations to accommodate the lower level and sunken courtyard and access area.
5. No other examples in the local area of dwellings or similarly sized buildings in rear gardens have been brought to my attention. This proposal for a two-storey

dwelling is therefore out of keeping with the established pattern of development in the area.

6. The division of the rear garden would also be uncharacteristic of the wider area, where houses typically have deep rear gardens. This would be accentuated by the excavation and creation of a sunken courtyard, and the separation of the side access from the host dwelling, requiring the creation of a new vehicle access and parking area on the existing front garden for the host dwelling.
7. I note that no proposed elevation drawing has been submitted for the side of the house that would be furthest from the host dwelling. As the submitted drawings show that this would be a blank wall with no openings in it, I am satisfied that this omission does not affect my interpretation of the proposals, and it can be addressed by a suitably worded condition.
8. The proposed development would therefore fail to preserve the character of the area. Consequently, it would conflict with Policies 7B and 7.4 of the Ealing Development Management Development Plan Document 2013 (the DPD). Taken together these policies require that new development complement the building pattern.

#### *Living conditions*

9. The proposed dwelling would be set into the ground so that it would not appear significantly taller or wider than the existing studio building within the rear garden. Consequently, it would not result in harm to the outlook from the existing house, nor appear overbearing to its occupiers.
10. The appeal proposal would result in the reduction in depth of the existing rear garden to allow the subdivision of the plot. However, the boundary would be a significant distance from the rear of the house. The retained garden area would be of sufficient size that occupiers of the existing house would not experience an undue sense of enclosure.
11. The appeal proposal would therefore not result in harm to the living conditions of the occupiers of 26 Creswick Road. It would accord with the requirements of Policies 7B of the DPD and 1.1 of the Ealing Development Strategy 2012. These policies require, amongst other criteria, that development achieve a high standard of amenity for users and adjacent uses and the protection and enhancement of suburban communities.

#### *Other Matters*

12. The Council referred to Policies D1 and D4 of the London Plan 2021 in both of its reasons for refusal. However, these policies broadly address matters of design and character at a high level rather than identifying specific issues relevant to the appeal proposal. They are therefore not determinative in my assessment of this appeal.
13. I note neighbour concerns about the potential impact on established trees from the proposed development. I am satisfied that this can be addressed by appropriately worded conditions to secure the retention or replacement of trees.

### *Planning Balance*

14. There would be harm to the character of the area from the creation of a new dwelling on the appeal site, dividing the garden and creating two smaller plots.
15. However, as the dwelling would be sunken into the ground and the portion of it that would be above ground level is not substantially larger than the existing buildings on site, the visual impact of the building would be very limited. Furthermore, the division of the garden would not be visible outside of the immediately surrounding area. The harm to the character of the area would be limited.
16. The proposed development would create one new dwelling. While there is no indication that the Council has a shortfall in its housing land supply, this would nevertheless boost the supply of new homes in accordance with the Government objective. Given the limited harm that would result in this instance, this benefit amounts to a material consideration that indicates this appeal should be determined other than in accordance with the development plan.

### **Conditions**

17. I have imposed conditions relating to the commencement of development (1) and specifying the approved plans (2) for the sake of certainty.
18. I have imposed conditions requiring submission and approval of a further elevation drawing (3) and approval of the external materials for the proposed building (4) to ensure that the finished appearance of the building is acceptable.
19. I have imposed four conditions (5, 6, 7, 8) relating to the planting of new trees and protection of existing trees to ensure that the new landscaping proposals would be appropriate for the site, and that existing trees on the site and on neighbouring sites would be protected or replaced to preserve the contribution they make to the character of the site and for the benefit of neighbouring occupiers.

### **Conclusion**

20. For the reasons set out above, the appeal succeeds.

*M Chalk*

INSPECTOR

### Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

|                  |                                          |
|------------------|------------------------------------------|
| 0211/EX/SP/01 T2 | Location plan and site plan              |
| 0211/EX/GA/01 P3 | Site plan and existing ground floor      |
| 0211/EX/GE/01 P3 | Existing elevations                      |
| 0211/EX/GE/02 P3 | Existing elevation and section           |
| 0211/PP/GA/01 P3 | Proposed ground floor                    |
| 0211/PP/GA/02 P3 | Proposed lower ground floor              |
| 0211/PP/GA/03 P3 | Proposed ground floor and side elevation |
| 0211/PP/GS/01 P3 | Proposed section AA                      |
| 0211/PP/GE/01 P3 | Proposed front and rear elevation        |
- 3) Notwithstanding the details approved under condition 2, no development shall commence above ground level until details of the rearmost elevation of the approved dwelling, as seen from Creswick Road, have been submitted to, and approved in writing by, the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) No development shall commence above ground level until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The
- 5) No operations (including initial site clearance) shall commence on site in connection with development hereby approved until a suitable scheme (Arboricultural Method Statement) for the protection of existing trees and hedgerows has been submitted and its installation on site has been approved in writing by the Local Planning Authority.

All protection measures must fully detail each phase of the development process taking into account demolition/site clearance works, all construction works and hard and soft landscaping works. Details shall include the following:

- Full survey of all trees on site and those within influencing distance on adjacent sites in accordance with British Standard 5837 Trees in Relation to Design, Demolition and Construction, with tree works proposals. All trees must be plotted on a site plan of not less than 1:200 scale, clearly and accurately depicting trunk locations, root protection areas and canopy spreads.
- A plan of not less than 1:200 scale detailing all trees and hedgerows planned for retention and removal.
- A schedule of tree works for all the retained trees specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with British Standard 3998 Tree Work - Recommendations.
- Timing and phasing of works
- Site specific demolition and hard surface removal specifications

- Site specific construction specifications (e.g. in connection with foundations, bridging, water features, surfacing)
- Access arrangements and car parking
- Level changes
- Landscaping proposals
- A Tree protection plan at a scale of not less than 1:200 scale in accordance with British Standard 5837 detailing all methods of protection, including but not restricted to: locations of construction exclusion zones, root protection areas, fit for purpose fencing and ground protection, service routes, works access space, material/machinery/waste storage and permanent & temporary hard surfaces.
- Soil remediation plans, where unauthorised access has damaged root protection areas in the construction exclusion zones.
- Details of the arboricultural supervision schedule.

All tree protection methods detailed in the approved Arboricultural Method Statement shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials have been removed from the site, unless the prior approval of the Local Planning Authority has first been sought and obtained.

- 6) The development hereby approved shall be constructed in accordance with a suitable Tree Monitoring Program.

(a) Prior to the commencement of development (including ground works and site clearance), the following shall be submitted to and approved by the Local Planning Authority:

A tree monitoring program to include:

- Confirmation of who shall be the lead arboriculturist for the development.
- Confirmation of the Site Manager, key personnel, their key responsibilities and contact details.
- Details of induction procedures for all personnel in relation to Arboricultural matters.
- A detailed timetable of events for arboricultural supervision concerning all tree protection measures within the approved Tree Protection Plan, including:
  - Prestart meeting with an Ealing Council Tree Officer
  - Initial implementation/installation of the tree protection measures
  - Approved incursions in to construction exclusion zones
  - Final removal of the tree protection measures
- Procedures for dealing with non-approved incursions into the construction exclusion zones as detailed in the approved Arboricultural Method Statement.

(b) Within three months of first use of the development hereby approved, a report containing the following details shall be submitted to and approved by the Local Planning Authority:

- Results of each site visit by the lead arboriculturist with photos attached.
- Assessment of the retained and planted trees including any necessary remedial action as a result of damage incurred during construction.

- 7) A suitable scheme of proposed tree planting and pits shall be submitted to and approved by the Local Planning Authority prior to the first use of the development hereby approved.

No operations shall commence on site in connection with the development hereby approved until a suitable scheme of proposed tree planting and tree pits have been submitted to and approved by the Local Planning Authority. The scheme shall include the following comprehensive details of all trees to be planted:

- Full planting specification - tree size, species, the numbers of trees and any changes from the original application proposals.
- Locations of all proposed species.
- Comprehensive details of ground/tree pit preparation to include:
  - Plans detailing adequate soil volume provision to allow the tree to grow to maturity
  - Engineering solutions to demonstrate the tree will not interfere with structures (e.g. root barriers/deflectors) in the future
  - Staking/tying method(s).
  - year post planting maintenance and inspection schedule.

All tree planting must be carried out in full accordance with the approved scheme in the nearest planting season (1st October to 28th February inclusive). The quality of all approved tree planting should be carried out to the levels detailed in British Standard 8545, Trees: from nursery to independence in the landscape - Recommendations.

Any trees which die, are removed, uprooted, significantly damaged, become diseased or malformed within five years from the completion of planting, must be replaced during the nearest planting season (1st October to 31st March inclusive) with a tree/s of the same size, species and quality as previously approved.

- 8) If any retained tree is cut down, uprooted or destroyed or dies another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time as may be specified in writing by the local planning authority.

End of schedule