



Appeal Decision

Site visit made on 10 September 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Appeal Ref: APP/A5270/W/24/3340961

145 Argyle Road, West Ealing, Ealing W13 0DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Mr Ali Vakili against the decision of the Council of the London Borough of Ealing.
- The application Ref is 233241OUT.
- The development proposed is described as "subdivision of the land."

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with the means of access and scale to be determined at this stage. The appearance, layout and landscaping are reserved for future consideration. I have considered the appeal accordingly and treated the drawings showing the appearance, layout and landscaping of the site as indicative only.

Main Issues

3. While the Council's Decision Notice does not refer to the effect of the proposed development on the living conditions of the occupiers of 2 Fosse Way (No 2) regarding outlook, its Officer Report clearly identifies this is an issue, and the appellant's statement has addressed this point. On this basis, the main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - whether the proposed development would provide acceptable living conditions for future occupiers with regard to private outdoor amenity space, outlook, light, ventilation and access; and
 - the effect of the proposed development on the living conditions of the occupiers of 2 Fosse Way (No 2) with regard to outlook.

Reasons

Character and Appearance

4. The appeal relates to a two-storey semi-detached house located on a corner plot within a predominantly residential area. The prevailing character of the surrounding area is one of largely two-storey semi-detached dwellings set back consistently from the road with front gardens or driveways and generously sized rear gardens. There is a large park directly opposite the appeal site.
5. 145 Argyle Road (No 145) has a lengthy garden with a brick boundary wall running along Fosse Way. There is a dropped kerb and garage like doors near the end of the boundary wall onto Fosse Way. The appeal site has an existing outbuilding in the rear garden which sits on a higher level than the garden of No 145. Planning permission¹ was granted to replace the existing outbuilding with a larger outbuilding for use as an office and gym.
6. I appreciate that the scale of the proposed dwelling would be the same as that of the approved outbuilding. However, a dwelling is a materially different use to an outbuilding so while the visual appearance of the proposal could be similar, its impact on the character of the area would be different. As a dwelling, its plot size would be much smaller than others in the surrounding area which are largely generously sized with spacious gardens. The scale of the proposed building would result in it being set tight to its boundaries on all sides. As a result, the proposal would appear unduly cramped and be incongruous with the existing pattern of development in the area.
7. Furthermore, the scale of the proposed dwelling would mean that its front elevation would be set close to the back of pavement. As a result, the dwelling would not respect the front building line of the properties on Fosse Way which are uniformly set back from the pavement with front gardens or driveways. While its appearance could be similar to that of the approved outbuilding, the scale and box like form of the dwelling would be harmfully out of place against the prevailing appearance of dwellings in the surrounding area and would disrupt the rhythm and pattern of the street scene.
8. While dwellings sited close to shared boundaries are common within urban environments, the proposed dwelling would be set tight to its boundaries on all sides, when compared to dwellings in the surrounding area which are not, due to the presence of front and rear gardens. The proposal would therefore be anomalous within this context. I do not agree with the appellant that the impact would be mitigated by the large park on Argyle Road as the area most directly affected is within the vicinity of the appeal site.
9. I note the conflicting comments within the Council's Officer Report in relation to the proposal's effect on the character of the area. However, it is clear from the Decision Notice that the Council considers harm would be caused by the proposal to the character of the area.
10. For the reasons above, I conclude that the proposed development would harm the character and appearance of the surrounding area. Hence, it would conflict with Policies D3 and D4 of the London Plan (March 2021)

¹ 230855CPL

(the LP) and Policies 7.4 and 7B of the Ealing Development Management Development Plan Document (December 2013) (the EDMDPD). Together, these policies, amongst other matters, require development to respond to the existing character of a place, achieve good design and complement existing building patterns. The Council has referred to Policies 1.1 and 1.2 of the Ealing Development Strategy 2026 Development Plan Document (April 2012) (the EDSDPD). However, these set out strategic spatial policy for Ealing so are not determinative on this main issue.

Living Conditions of Future Occupiers

11. The site plan² indicates how the rear garden space of the appeal site could be subdivided with a party fence. This would result in the garden space for the proposed dwelling comprising only a narrow strip to its side and a very small area to its front. The potential amount of private outdoor amenity space provided would fall significantly short of the minimum private outdoor space required by the development plan. Furthermore, while the landscaping shown on the site plan is indicative, the proposal would likely result in a very narrow garden space which would not be fit for purpose. The appellant acknowledges that the private outdoor space would be small but considers it acceptable in the urban context and due to there being a large park opposite the site. However, the existence of public open space nearby would not justify the under-provision of private outdoor amenity space. Furthermore, the development plan seeks to ensure that occupiers are able to enjoy good levels of private outdoor amenity space within an urban context.
12. The indicative floor plan³ shows that due to the scale of the of the proposed building and its proximity to the boundary fence to the north and west, one of the proposed rooms would have no elevational windows. While rooflights could help to provide sufficient light and ventilation, there would be a lack of outlook from that room.
13. Based on the same indicative floor plan and the site plan, the windows to two of the proposed rooms nearest the garden could be very close to the proposed party fence. Consequently, the outlook from those windows would be potentially poor and the amount of light received by them would likely be limited.
14. The Council's Decision Notice refers to the proposed access as being inappropriate and unsafe. Contrary to the Council's contention, the evidence before me does not suggest the proposed access would be inappropriate or unsafe. Pedestrian and cycle access to the appeal site is proposed from Fosse Way. Given that other properties in the street are accessed from Fosse Way by pedestrians and cyclists in a similar manner, I find that the proposed access would be acceptable.
15. For the reasons above, I conclude that despite appropriate access and ventilation, the proposed development would not provide acceptable living conditions for future occupiers with regard to private outdoor amenity, outlook and light. I judge the magnitude of this harm to be significant in

² Proposed Site Plan, Drawing No 145AGR-ATG-02-XX-DR-A-0015

³ Proposed Ground Floor Plan, Drawing No 145AGR-ATG-02-XX-DR-A-0021

this context. Consequently, it would conflict with Policies D3, D4 and D6 of the LP and Policies 7.4 and 7B of the EDMDPD. Together, these policies, amongst other matters, require development to achieve good design, complement the existing building pattern, deliver appropriate outlook and amenity, ensure sufficient daylight and sunlight and provide adequate private outside space. The Council has referred to Policies 1.1 and 1.2 of the EDSDPD. However, these set a strategic spatial policy for Ealing so are not determinative on this main issue.

Living Conditions of the Occupiers of No 2

16. The appeal site adjoins No 2 to the west which is set back from the road and has a single storey side garage to its east next to the shared boundary which comprises a wooden fence. The nearest ground floor window to a habitable room on the front elevation of No 2 is located away from the shared boundary. While the proposed dwelling would be set forward of the front elevation of No 2, given its distance from the ground floor window of No 2 and its modest height, the proposal would not unacceptably diminish the outlook of No 2.
17. For the reasons above, I conclude that the proposed development would not harm the living conditions of the occupiers of 2 Fosse Way (No 2) with regard to outlook. Hence, it would comply with Policies D3 and D6 of the LP and Policy 7B of the EDMDPD. Together, these policies, amongst other matters, require development to deliver appropriate outlook and amenity. The Council has referred to Policy 7.4 of the EDMPD, however, this policy relates to local character so is not determinative on this main issue.

Planning Balance

18. The Council cannot demonstrate a five-year supply of deliverable housing land. In these circumstances, paragraph 11(d) of the Framework is engaged. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. The proposed dwelling would contribute to the overall housing supply in an urban location that has good accessibility to public transport, services, infrastructure, and jobs. It would provide social and economic benefits during construction and in subsequent occupation and diversify the house type and size available in the area. The efficient use of suitable small sites for residential windfall development in Ealing is acceptable in principle. These are all positive benefits, however, given the small scale of the development, the weight afforded to these benefits is limited.
20. Compliance with the development plan with regard to privacy, internal living space, cycle parking provision, waste and recycling facilities, biodiversity, environmental pollution, sustainable construction will weigh neither in favour or against the proposal and is therefore considered neutral.
21. I have found that the appeal proposal would cause undue harm to the character and appearance of the surrounding area. It would cause significant harm to the living conditions of future occupiers by virtue of the

poor quality of the private outdoor amenity space, light and outlook. The identified policies from the LP, EDSDPD and EDMDPD are, in the circumstances of this case, consistent with the Framework and therefore I attach the scheme's conflict with these policies significant weight.

22. Drawing these points together, I attribute significant weight to the harms and the related policy and Framework conflicts I have identified. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

23. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

U P Han

INSPECTOR