



Appeal Decision

Site visit made on 27 March 2025

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th May 2025

Appeal Ref: APP/A5270/W/24/3353935

31 Corfton Road, Ealing W5 2HP

- 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 S Booth of Ovan Properties Ltd against the decision of the Council of the London Borough of Ealing.
- The application reference is 241127FUL.
- The development proposed is the construction of a detached single storey dwelling house over basement and ground floor level.

Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

Description of the proposed development

2. The proposed development was originally described on the planning application form as a “new-build two-storey house split over basement and ground floor levels”. The Council used a different description on its decision notice, although the changes were minor and did not affect the nature of the proposal. As the revised wording was subsequently accepted and adopted by the appellant, I have used it in the banner heading above.

Amended plans

3. The appellant submitted a revised “proposed plans and elevations” drawing¹ during the appeal. The changes proposed included a small reduction in the gross internal area and footprint of the building, the introduction of three lightwells serving rooms in the lower ground floor, and changes to fenestration (notably, introducing window openings on the previously blank west elevation).
4. The Procedural Guide: Planning Appeals – England² advises that the appeal process should not be used to evolve a scheme, and that it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage². Notwithstanding that, in deciding whether to accept the revised plans I have had regard to the judgment of the High Court in Holborn Studios³ (which refined the long-standing and well-understood “Wheatcroft principle”⁴), and whether any prejudice would occur. In this case, although the changes are an attempt to

¹ Drawing 21-181 PLO2 Rev B (dated 16 November 2023; “B” revisions dated 9 October 2024)

² <https://www.gov.uk/government/publications/planning-appeals-procedural-guide/procedural-guide-planning-appeals-england#amending-the-proposed-scheme-once-an-appeal-has-been-made>

³ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

⁴ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

address some parts of the reasons for refusal, in my view they would neither alter the fundamental nature of the scheme nor introduce changes on which considerations of “natural justice” might suggest it necessary to fully re-consult interested parties.

5. The Council’s stance on the scheme does not appear to have altered as a result of the revised drawings, and I note its comment during the appeal that it was “disappointed that the application has been appealed against comprising of a new design instead”. However, nothing has been put before me to suggest that any unfairness – whether substantive or procedural – would arise in the event of my accepting the amended plans. Given the relatively minor nature of the changes, I am satisfied that no prejudice would occur should I accept these plans. With that in mind, I have therefore determined the appeal on the basis of the revised plans.

Changes to national planning policy

6. On 12 December 2024 the Government published a revised National Planning Policy Framework (“the Framework”), replacing the December 2023 version extant when the planning application was determined. The provisions most relevant to this appeal were not altered significantly; I am therefore satisfied that there has been no need to seek further comments on the revised Framework, and that no party’s interests have been prejudiced by my taking this approach. Where I have referred to specific paragraphs of the Framework, I have used the December 2024 numbering.

Main Issues

7. The main issues are:
 - The effect of the proposed development on the character and appearance of the Ealing Cricket Ground Conservation Area;
 - The effect of the proposed development on the living conditions of occupiers of surrounding properties, with particular regard to privacy and overlooking; and
 - Whether the proposed dwelling would provide acceptable living conditions for future occupiers, with particular regard to outlook, daylight and sunlight, and natural ventilation.

Reasons

Character and appearance

8. The appeal site is within the Ealing Cricket Ground Conservation Area (“the ECGCA”), and I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. As heritage assets are irreplaceable, the Framework states that they should be conserved in a manner appropriate to their significance (paragraph 202). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 213) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 215).
9. The ECGCA lies a short distance north-east of Ealing town centre, and covers an approximately L-shaped area focused on two principal streets – Corfton Road running north-south, and Woodville Gardens running west-east – with the cricket

ground itself at their junction. The Council's 2008 ECGCA Character Appraisal describes the streets as being lined with well-detailed villas, built between 1890 and 1910, set in a rigid pattern with a common building line and plot size.

10. While the conservation area is urban in nature, large open spaces including the cricket ground and the reservoir at the top of Corfton Road (as well as others close to but outside the area) give it a green and open character. Houses within the ECGCA generally have close side-to-side relationships but long and spacious rear gardens, often with mature trees and shrubs. The size and form of private gardens both enhances the open character of the area, and adds to its green and sylvan appearance.
11. The appeal site is at the rear of No 31 Corfton Road, one of the ECGCA's original large villas which has subsequently been divided into self-contained flats. The site was previously part of the rear garden of No 31, but has been "sold as a separate piece of land now offering opportunity for development". The proposed development is a two-level detached dwelling with three bedrooms, which would be sited at the western end of the plot. Access would be from Corfton Road, through a space at the side of No 31 currently occupied by a lean-to garage or shed structure.
12. The proposed dwelling would be sited close to the boundary with West Walk, a narrow tree-lined lane for pedestrians and cyclists. The rear gardens of houses on the western side of Corfton Road back onto West Walk and it is a place from where, I saw, the contribution those gardens make to the openness and greenness of the ECGCA can be appreciated. The dwelling would span almost the full width of the plot; notwithstanding its single-storey external appearance, it would mean the insertion of a substantial built form into what is currently an open space.
13. As I have already described, the open spaces of the ECGCA make a valuable contribution to its visual character and quality, including its openness; this would be diminished by the introduction of a dwelling into the space between No 31 and West Walk. The small courtyard garden which would serve the proposed dwelling (and, indeed, the smaller garden which has been retained for No 31) would also be at odds with the prevailing pattern of very generous suburban gardens within the ECGCA. The proposed development would therefore dilute the historic character of the conservation area.
14. The appellant has drawn my attention to other developments elsewhere on Corfton Road; at No 9 where permission was granted for the demolition of five garages and the erection of a two-storey (ground and basement level) dwelling⁵, and at No 29 (the property immediately south of the appeal site) where permission has been granted for the conversion of a large garage building⁶. Similarly, another residential development replacing garage blocks at the rear of Nos 1 and 3 Corfton Road was also referred to⁷. However, it is evident that all those other schemes relate to the conversion of existing buildings, and in the case of No 9, and Nos 1 and 3, that the use of the garages previously on those sites had been independent of the "main" property for a considerable period of time. The proposal before me, on the other hand, would see the introduction of a building where currently there is none, on a site which it appears has been divided from the remaining garden of

⁵ LPA Ref: 184695FUL

⁶ No planning permission reference was provided to me in respect of No 29.

⁷ In an extract of the Council's officer report relating to the development at No 9, quoted in the appellant's statement.

No 31 solely for the purposes of development. The appeal scheme is not directly comparable to these other examples, and they do not weigh significantly in its favour.

15. The appellant also drew my attention to an existing outbuilding at the rear of No 27. It is next to the building at the rear of No 29, so there are two consecutive plots with significant development at the rear. The buildings at Nos 27 and 29 are both visible over the boundary fence or wall from West Walk; the intrusion of substantial buildings into what were once garden spaces is therefore already evident, and has no doubt eroded the green and open character and appearance of this part of the ECGCA. Because of the proposed flat roof form, this appeal dwelling would not be as tall as the pitched-roof building at the rear of No 29. However, it would still be visible from West Walk across the boundary fence, increasing the cumulative intrusion of buildings into the predominantly open back gardens of Corfton Road, and further interrupting the historic pattern of development within the conservation area.
16. The Council noted that, while the design of the dwelling would be “distinctly modern”, subject to some questions about specific details of materials and colours, it considered it “to be of high quality”. To the extent that it is possible to consider the proposed building in its own right, none of the evidence before me leads me to disagree with that assessment. However, this would not overcome harm which would be caused by a further erosion of the spacious character of the conservation area which, as I have already described above, would be the consequence of this scheme.
17. I therefore conclude that the proposed development would not preserve or enhance the character and appearance of the Ealing Cricket Ground Conservation Area. It would conflict with Policies 7.4, 7B and 7C of the 2013 Ealing Development Management DPD (“the DMDPD”), and with Policies D3, D4 and HC1 of the London Plan 2021. Together, and among other things, these policies seek to ensure that the building pattern, scale and detailing of development proposals respond to their surroundings, and that features and characteristics which make a positive contribution to Conservation Areas are retained and responded to.
18. In the Framework’s terms, the harm to the heritage asset would be less than substantial, and must therefore be weighed against the public benefits of the scheme. In view of the Government’s aim to significantly boost the supply of housing, the provision of a single, small dwelling would amount to a small public benefit. The appellant has suggested that making “better use of this highly accessible site” would represent an economic benefit, though as I have set out above the proposed use would be at odds with the character of the ECGCA as a whole. I consider that any benefits arising from the development would be outweighed by the adverse impacts on the conservation area.
19. I also find that the proposed development would conflict with Draft Policy DAA of the emerging Ealing Local Plan which, among other things, seeks to ensure that development complements local character and value. That plan has not yet been adopted, and conflict with this draft policy on its own would therefore carry limited weight in my decision.

Living conditions – neighbours

20. The proposed dwelling would have a patio area on its eastern “front” side. The Council expressed concern about a potential loss of privacy for neighbours, and noted that there was a lack of detail about the height of the patio. During the appeal the appellant responded that it was intended that the patio would be raised above ground level by 300mm, but that it could be lowered to 150mm or even set at ground level, and that this could potentially be addressed by a condition.
21. Many of the rear gardens on Corfton Road have relatively low side boundary walls, especially away from the main dwellings and towards West Walk. While the fence which has been erected at the end of the retained garden of the “main” No 31 would provide some screening in that direction, standing at ground level on the appeal site I saw that clear views were possible across the low walls into the gardens of No 33 to the north and No 29 to the south.
22. The introduction of an independent, self-contained dwellinghouse onto the appeal site would greatly increase the potential for overlooking, and a harmful loss of privacy for neighbours, either from residents using the patio area, or from them or their visitors coming and going along the access path between No 31 and No 29. Based on what I saw during my visit, even if the development had been acceptable in other respects, this is not a matter which it would have been appropriate to deal with by a condition, as it is not certain that it could adequately resolve or otherwise mitigate the issue.
23. I conclude that the development would have an unacceptable effect on living conditions for the occupiers of surrounding properties. It would therefore conflict with Policy 7B of the DMDPD which, among other things, seeks to ensure that development achieves a high standard of amenity for adjacent users, including in respect of privacy.
24. There would also be conflict with Draft Policy DAA of the emerging Ealing Local Plan, which seeks a high level of amenity, though again I note that that plan has not yet been adopted.

Living conditions – future occupiers

25. The proposed dwelling would have a family room (combining kitchen, dining room and living room) and its master bedroom suite on the ground floor, and two bedrooms on the lower ground floor. The basement would be set entirely below the external ground level; its rooms would be dependent on lightwells for outlook, and for daylight and sunlight. The second bedroom would have two lightwells, the third bedroom would have one; all three lightwells would also serve as small external terraces for their associated bedroom.
26. I have not been provided with detailed measurements, but with reference to the scale bar on the submitted drawings it is apparent that the back walls of all three lightwells would be somewhat less than 2m from the bedroom windows. The basement bedrooms would therefore look out onto the deep lightwell walls from a very short distance; those two rooms would have a very limited and oppressive outlook, and would provide poor living conditions for their occupiers.

27. A daylight and sunlight study submitted during the appeal⁸ concluded that all of the habitable rooms would comply with guidelines in the 2022 BRE *Site layout planning for daylight and sunlight - a guide to good practice* (“the BRE guidance”) in respect of daylight. Although the two lower ground floor bedrooms would receive no or very limited sunlight, the dwelling as a whole would comply with the BRE guidance in respect of sunlight.
28. The Council’s decision notice and officer report also considered that the dwelling would have poor natural ventilation, as a result of its single-aspect layout with doors and windows only on its eastern elevation. In the amended scheme which I am considering, additional windows would be introduced on the western elevation on both levels; the dwelling would not be single-aspect, and there would be likely to be acceptable natural cross-ventilation.
29. There would therefore be adequate daylight and sunlight, and cross ventilation, within the dwelling. However, two of its three bedrooms would have a very poor outlook, and to my mind this is a significant shortcoming for what would clearly be expected to function as a family dwelling. I therefore conclude that the development would not provide acceptable living conditions for future occupiers, and would conflict with Policy D6 of the London Plan 2021. That policy seeks to ensure that housing development provides high quality living spaces, including in respect of outlook by providing visual interest for occupiers.
30. The Council’s decision notice referred to conflict with Policy 3.5 of the DMDPD. Though titled “quality and design of housing developments”, it deals specifically with the application of space standards. The evidence before me is that the dwelling would comply with the relevant space standards; I therefore find no conflict with that policy, although this does not negate the other conflict with the development plan which I have found.

Conclusion

31. For the reasons given above the appeal should be dismissed.

M Cryan

Inspector

⁸ Herrington Consulting Ltd, Revision 1 dated 16 October 20204 – this related to the amended plans for the scheme.