



Appeal Decision

Site visit made on 24 October 2023

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2023

Appeal Ref: APP/G5180/W/23/3326977

Land adjacent Electricity Sub Station, Dale Wood Road, Orpington, Bromley BR6 0BY

- 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 Hutchins against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/04526/FULL1, dated 16 November 2022, was refused by notice dated 9 February 2023.
 - The development proposed is the construction of a detached 3-bedroom house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have been supplied with the appellant's letter of objection to the making of the Tree Preservation Order (TPO). However, the TPO is in place and therefore this is not a matter for my consideration.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area, including the potential effect on trees subject to a TPO.

Reasons

4. The appeal site is an irregular shaped parcel of land that is adjacent to a sub-station, railway line and Dale Wood Road. The site, which is subject to a woodland TPO, is currently occupied by trees, seedlings, saplings as well as other vegetation. Collectively, this green infrastructure provides an attractive backdrop along Dale Wood Road that makes a positive contribution to the visual quality of the area. The road comprises two-storey detached and semi-detached dwellings, which are set back from the road and have soft-landscaped frontages, many of which contain mature trees. As such, the road has a verdant, leafy character.
5. The pattern of development along Dale Wood Road is such that it contains houses facing each other up until the substation. From here onwards, there are dwellings only on one side of the road, directly opposite the woodland where the appeal site is located.
6. Mindful of the above context, the proposed dwelling would appear highly conspicuous in the streetscene, as it would stand on its own and not have immediate dwellings on either side, markedly at odds with the prevailing urban grain. The Council does not raise an issue with the design of the proposed

dwelling, however this would not overcome the harm arising from introducing a residential plot in this location.

7. Given its tree coverage, the site is an efficient use of land that also makes an important contribution to the natural environment. The Tree Survey, Arboricultural Impact Assessment & Arboricultural Method Statement submitted in support of the application advises that three category U trees and 2 category C trees would be removed to facilitate the development. Despite their individual merit and condition, the trees have value as a part of the collective unit. Thus, their loss would weaken the visual quality of the woodland as a whole. Further, the proposal would require removal of part of the hedgerow planting to the front of the site to provide for access, which in combination with the residential plot, would unduly erode the integrity of the woodland and harm the character of the area.
8. The Council advises that there are plentiful of small trees, seedlings, and saplings on site, which natural regeneration would restore to a full canopy. The emerging trees are also protected by the woodland TPO and I have not been provided with compelling evidence to demonstrate how the emerging woodland would be protected following development.
9. The Tree Protection Plan shows that the dwelling would be surrounded by the retained trees. T1, an oak tree, would overhang the proposed driveway, whereas the canopy of T7, another oak tree, would cover a substantial portion of the garden. The canopy of T4, an ash tree, would also overhang a small area of the property's garden. Both oak trees are category B and are estimated to have 20+ remaining years. Due to their height and position, these trees are visible in the street scene. The ash tree, due to its location, would be less perceptible from public vantage points.
10. Given the extent of canopy spread over the garden and driveway, these trees would likely cause concern to the dwelling's future occupiers, which may include the nuisance of leaf litter. Still, even if future occupants did not consider this matter a nuisance, taking account of the size of the trees and the level of canopy spread across the plot, future occupants would likely be fearful of branches falling into their outside spaces. This would create pressure to remove or substantially prune the trees.
11. I note the appellant's comments regarding ownership of the third party trees and relevant procedural routes should works to the trees be required at a later date. However, once the development exists, it would be difficult for the Council to resist such reasonable requests. The loss or significant reduction of the tree canopies, particularly of the oak trees, would undermine their amenity value and contribution to the character and appearance of the area.
12. The Council contends that despite the measures to protect an oak tree and an ash tree during construction, given the extent of the encroachment onto their Root Protection Areas (RPA), direct harm to roots as well as soil compaction is to some extent inevitable. However, I have not been provided with compelling evidence to demonstrate that this harm would lead to the loss of these trees. Nevertheless, this would not overcome the harm that I have identified above.
13. Taking all of the above into account, I conclude that the proposal would be harmful to the character and appearance of the area, including trees subject to a TPO. The proposal would be contrary to Policies 4, 37 and 73 of the Local

Plan 2019 (LP), where these policies seek to achieve good quality design and protect trees that provide visual amenity.

14. The reason for refusal quotes Policies 41 and 43 of the LP. However, these policies relate to conservation areas and trees in conservation areas. Based on the information before me I do not find these policies to be relevant in the context of this appeal.
15. Although not listed in the Council's reason for refusal, reference is made by the appellant to a few policies of the London Plan 2021. I have not been provided with the full text of these policies and, as such, it is not possible to conclude whether the proposal would comply with them. Nevertheless, I have found harm against the policies quoted in the reason for refusal and, therefore, it remains that the proposal would be harmful to the character of the area.

Other Matter

16. The appellants quotes pre-application advice from the Council that the building appears to be viable. Such advice is always given without prejudice to the outcome of any subsequent formal application and any appeal is determined on a fresh assessment of the evidence provided.

Planning balance

17. The Council cannot currently demonstrate a 5 year housing land supply of deliverable housing sites and the undersupply is acknowledged as 'significant'. Consequently, the provisions of paragraph 11d) of the National Planning Policy Framework (the Framework) should be applied.
18. The Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework seeks to ensure that development adds to the overall quality of the area and is sympathetic to local character. Therefore, the conflict between the proposal and Policies 4, 37 and 73 of the LP should be given significant weight in this appeal.
19. Set against the identified harm, the proposal would be a self-build project on a windfall site. It would deliver one dwelling in an accessible location within walking distance of a railway station and Orpington town centre, in support of Government's objective of significantly boosting the supply of homes. The proposed dwelling would be energy efficient and there would be an area for biodiversity enhancement, albeit I have not been provided with specific details. Collectively, these benefits attract moderate weight in favour of the proposal.
20. As such, the harm associated with the proposal significantly and demonstrably outweighs the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

21. Overall, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations of sufficient weight, including the provisions of the Framework, to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

P Terceiro

INSPECTOR