
Appeal Decision

Site visit made on 15 July 2025

by **H Whitfield BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 August 2025

Appeal Ref: APP/G5180/W/25/3362507

Parsons Hill Field, Luxted Road, Downe, Orpington, Bromley BR6 7JX

- 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 & Mrs N Scoble against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/24/02581/FULL1.
 - The development proposed is the demolition of existing storage building and erection of replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's second reason for refusal refers to 'ancient woodlands to the east (Cudham Valley) and west (Downe Valley)' of the appeal site. The Council has confirmed that these are the same ancient woodlands that are referred to in the appellant's Ecological Impact Assessment by their full names, Hang Grove (east) and Snotsdale and Ladies Wood (west). I have proceeded on this basis and shall refer to the ancient woodlands as such.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, with particular regard to its effect on protected trees; and
 - The effect of the proposed development on biodiversity.

Reasons

Protected trees

4. The appeal site relates to part of Parsons Hill Field which lies on the western side of Luxted Road within the open countryside. The site comprises an existing storage barn which is located to the side of a U-shaped stable building. The surrounding area comprises woodland and open land, including a cricket ground to the immediate north.
5. Several established trees are located to the north and east of the site. Within this treed area, seven Oak trees are subject to a Tree Preservation Order¹ (TPO), two of which are outside of the appeal site on the adjacent Downe Cricket Ground. The TPO trees

¹ Council Ref. 2981/2024

are not immediately accessible to the public and the high hedgerows and trees along the boundary with Luxted Road provide some screening of the TPO trees further back within the site, however, they are visible from the adjacent cricket ground. Irrespective of when the trees became protected by TPO, as a group, the trees contribute positively to the sylvan and verdant character of the area.

6. The Arboricultural Report (the AR) and the Tree Removal Plan shows that two protected Oak trees, T9 and T11² would be removed to facilitate the development. I observed the affected trees on my site visit and noted them to be tall trees, in fair to good structural condition, with moderate individual amenity value, which corresponds with the findings of the AR. The AR indicates that these trees are semi-mature and, despite their B1 categorisation, have a life expectancy of greater than 40 years.
7. Due to their set back position within the site, T9 and T11 are not easily distinguishable from their surroundings when viewed from Luxted Road. However, they are visible from the adjacent cricket ground and, individually, have a moderate amenity value. Together they also form part of a linear group of Oak trees which make a strong contribution to the verdant character of the area and have a high group amenity value. Whilst the removal of these trees might improve the rooting environment for higher value trees nearby, their loss would nevertheless erode the collective value of the group and result in harm to the character and appearance of the area.
8. Whilst noting that the replacement dwelling would occupy broadly the same footprint as the existing barn, it would nevertheless be located in relatively close proximity to the retained TPO trees T8, T13 and T14³ which form part of the same group. The AR notes these category A1 trees to be in good structural condition, ranging from 18-22m in height and with a life expectancy of greater than 40 years. All three trees are located adjacent to the northern boundary of the wider site with the Cricket ground. The trees are set back behind vegetation along Luxted Road; however, they are visible from the adjacent cricket ground and have high amenity value as large, prominent and mature trees that make a strong contribution to the character and appearance of the area and form part of the linear group of Oak trees along this boundary.
9. TPO trees T2 and T7⁴ are also located either side of the access track. Both trees were observed to be relatively tall, in fair to good structural condition, with T2 having moderate individual amenity value (category B2) and T7 high amenity value (category A1), as set out in the AR. Both trees are estimated to have a life expectancy of greater than 40 years. As these trees are sited closer to the highway boundary, they have a greater presence in the street scene and are also viewed in the context of the wider group of Oak trees within and adjacent to the site, making a strong contribution to the character and appearance of the area.
10. The canopies and Root Protection Areas (RPAs) of T2, T7, T8, T13 and T14 would overhang the appeal site's boundary. The AR indicates that the construction of the dwelling would result in some minor intrusions into the RPAs of T8 and T13 and the canopies and RPAs of T2, T7 and T8 would intersect the proposed access track. It is unclear how any intrusions into the RPAs of the protected trees would result in any benefits to their long-term health. However, whilst the risk of damage to tree roots during construction cannot be entirely ruled out, I am satisfied that the use of tree protection measures and precautionary working methods set out in the AR, including

² T5 & T4 on the TPO documentation.

³ T3, T6 & T7 on the TPO documentation.

⁴ T1 & T2 on the TPO documentation.

arboriculturist consultation for the design of any excavations within the RPAs of the protected trees, could reasonably be secured by condition if the appeal were to be allowed. This would ensure that the retained TPO trees are protected during construction works.

11. The canopies of trees T2 and T7 and their RPAs extend across the access track which is currently unmade and appeared compacted and rutted at the time of my visit. This is likely to be affecting the existing rooting environment of these trees. It is proposed to surface the driveway with a no-dig specification installed over the existing ground level. The AR states this proposed surfacing seeks to improve the rooting environment for the trees over time and I note it would not cover a significant portion of the RPAs. In the absence of any compelling evidence that this would result in specific harm, I am satisfied that this element of the proposal would be acceptable.
12. The proposed dwelling, its garden and access would have a very close relationship with the TPO trees. The rear elevation of the proposed dwelling and its garden would face north and with the removal of T11 and the adjacent smaller trees (G2 and T12, not protected by TPO), views from the rear windows would not be obscured by overhanging tree canopies. However, the close interrelationship between the dwelling, its garden area and trees T8 and T13, which are large and imposing in stature, would result in ongoing maintenance responsibilities for future occupiers, potential for nuisance from leaf litter, falling branches or the perceived risk of such occurrences, and shading of a large portion of the garden area. This would be the case even if the trees had reached their maximum canopy sizes and did not continue to grow.
13. The canopies of T2, T7 and T8 would also overhang the access track. Given their proximity, this is also likely to increase future pressures for pruning or removal, due to, for example, seasonal nuisance from leaf litter and apprehension relating to potential damage from falling branches. Collectively such pruning works would impact the natural growth and shape of the protected trees, which are the most prominent in the public realm, and their removal would ultimately have an adverse effect on the character and appearance of the area.
14. I acknowledge that the Council could refuse any application for works to the trees and that such works would follow best practice and appropriate guidance. However, perceptions of future occupiers can lead to pressure for inappropriate tree works, including removal, which the Council would have difficulty in resisting. There is no substantive evidence before me to suggest that the protected Oak trees would not be subject to such pressures and, without introducing residential occupiers in such close proximity to the trees, such pressure would not be as heightened. Consequently, I find there would be inadequate space between the trees, the dwelling, its garden area and access for nuisances to be avoided. The appellant has suggested that conditions could be imposed requiring ongoing maintenance, pruning and monitoring works to the protected trees. However, this does little to allay my concerns about the pressure for ongoing maintenance works and the effects these could have on the long-term health and lifespan of these protected trees.
15. Moreover, I note the appellant states that the removal of trees as proposed would provide an enhanced growing environment for the retained trees. However, any increase in the spread of the canopies of the trees closest to the dwelling would only increase the perception of risk of damage to it and the effects of shading and debris. Therefore, even though they are protected, such change in circumstances could be used to justify their removal.

16. Overall, I do not consider it would be possible for the proposed dwelling to achieve a harmonious long-term relationship with the protected trees. Given this, despite the protected trees being subject of a TPO, there is a tangible risk that occupation of the proposed dwelling would result in future pressure to extensively prune or remove them. This would significantly harm the character and appearance and visual amenity of the immediate area. Whilst replacement planting could be secured by condition and any new trees would be a positive addition to the immediate area, they would take some time to establish and many years to reach the height and maturity of the protected trees that would be removed and/or would be under pressure as a result of this development. The provision of replacement trees would not therefore sufficiently mitigate for or justify the risk of the future removal of the protected trees.
17. For the above reasons, I conclude that the development would result in the unacceptable loss of two protected trees and that the appellant has failed to demonstrate that the development would not result in a detrimental impact upon the long-term viability of the retained protected trees. The development would therefore result in harm to the character and appearance of the area, having particular regard to the effect on protected trees. This conflicts with Policies 73 and 74 of the London Borough of Bromley Local Plan (2019) (the BLP) and Policy G7 of the London Plan (2021) (the LP), which together and amongst other things, seek to ensure that trees of value are conserved and that developments take particular account of existing trees in the interests of visual amenity.

Biodiversity

18. The Ecological Impact Assessment (ECIA) states that there are two areas of ancient woodland within 500m of the appeal site, Snotsdale and Ladies Wood, stated to be approximately 160m to the west, and Hang Grove approximately 460m to the east. The Council also states that Sandwalk Wood is within 50m of the appeal site, however, this is not designated as an Ancient Woodland due to its size. The ECIA explains that the surrounding area is characterised by fields bound by lines of trees and hedgerows connected to parcels of ancient and semi-natural woodland.
19. The Council alleges that the removal of T9, T11 and G2⁵ would result in a loss of biodiversity and connectivity between ancient woodlands, and this could affect species such as Hazel Dormice. The removal of these trees along the northern boundary would result in a gap in the existing vegetation line. However, given the extent of removal proposed and the distance between the appeal site and the ancient woodlands, the ECIA states that this would not have any direct or indirect effects. In the absence of any persuasive evidence to the contrary, I see no reason to come to a different conclusion. Moreover, I note that the gap that would be created in the northern boundary could be mitigated by the planting of a hedgerow along the boundary, as suggested by the appellant, which could be controlled by condition if the appeal were to be allowed. Whilst this would take some time to establish, it would assist in maintaining connectivity along this boundary.
20. The ECIA states that the trees on the northern boundary provide suitable commuting habitat for Hazel Dormice. Hazel Dormice are European Protected Species afforded protection by the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act, 1981 (as amended) in addition to

⁵ Identified as Holly/Hazel trees in the AR.

being a Species of Principal Importance under the Natural Environment and Rural Communities Act 2006 (as amended).

21. As there is some connectivity between parcels of woodlands via the trees and hedgerows around the appeal site, the ECIA states that the presence of dormice cannot be entirely ruled out. However, given the majority of habitat within the site comprises modified grassland and bare ground and given the lack of a substantial understorey beneath the tree canopies, the ECIA states that the appeal site provides a poor and unsuitable habitat for these species. Due to the lack of suitable habitat within the appeal site and small area of suitable habitat to be affected by the development, no further survey work is recommended by the ECIA.
22. Whilst tree canopies can be used by dormice for commuting, and the loss of trees as a result of the development would reduce the available tree canopy in the vicinity, given the habitats present on and in the vicinity of the appeal site, the ECIA states that the potential impact of this development to the species is low, reducing to negligible with appropriate mitigation measures including the appropriate timing and phasing of clearance works to be undertaken by hand. The Council has not presented any substantive evidence to dispute the conclusions of the ECIA, which on this basis, I take to be the most reliable evidence. I therefore find that the development would not adversely affect Hazel Dormice as a protected species.
23. Therefore, subject to the implementation of mitigation measures and replacement hedgerow planting, which could be secured by appropriate conditions, I find the development would be acceptable in terms of its effect on biodiversity. It would therefore accord with Policy 75 of the BLP and Policy G6 of the London Plan (2021) (the LP), which together and amongst other things support retention or replacement of hedgerows and the protection and conservation of priority species and habitats.
24. The Council refers to Policy 69 of the BLP which relates to proposals affecting Local Nature Reserves, Sites of Importance for Nature Conservation and Regionally Important Geological Sites. However, as the Council has not drawn my attention to any such sites that they consider would be affected by the development, I find that this policy is not determinative in my consideration of this appeal.

Other Matters

25. I note the appellant's concerns over the Council's handling of the application including the timescale and manner within which it served the TPO. However, this has no bearing on my consideration of this appeal, and I have determined the case on its planning merits. Moreover, a lack of public objection to the development does not alter my findings on the main issues.
26. The dwelling would incorporate renewable and energy efficient technologies, high-quality building materials and would be designed to comply with building regulations and the Nationally Described Space Standards. However, there is little in the evidence to suggest the development would be particularly innovative, or that it would go beyond the requirements of the development plan or other governing legislation in this regard and therefore these benefits are given limited weight in favour of the proposal.
27. The appellant also states that the development would provide them with a family home to enable them to care for the appellants relative as the need arises. However, limited evidence is before me with regards to any current caring responsibilities or health

needs. Therefore, I attach limited weight in favour of the appeal scheme to the personal circumstances of the appellant.

28. The appellant further contends that a permanent on-site presence would enable 24-hour supervision for their horses and sheep and deter rural crime. However, I am presented with limited substantive evidence which demonstrates that the site is at particular risk of rural crime or that a 24-hour presence is necessary in the interest of animal welfare. As such, this attracts no more than limited weight in favour of the appeal. The appellant also puts forward that the development would reduce the number of trips to and from the site on the highway network, which should be regarded as a benefit of the development. However, there is no evidence before me to suggest that there is a pre-existing highway safety issue that this development would address.
29. The appellant states the development would improve the site's current appearance. However, I am not persuaded that there would not be a less harmful way of repurposing the land and securing the same benefits. Moreover, whilst the Council does not raise any objections to the proposal in terms of its effect on the Green Belt, the living conditions of existing or future occupiers, highway safety or on matters relating to design, compliance with the development plan in these respects is a neutral factor. I also appreciate that no objections have been received from highways and drainage consultees, however these do not alter my conclusions on the main issues.
30. The appellant has also referred to several examples of developments that they state have been approved by the Council. However, I have not been provided with any details of these schemes and so cannot be certain that the circumstances are the same or comparable to the appeal before me. In any case I have considered the appeal proposal on its own planning merits.

Planning Balance

31. Notwithstanding my findings on the effects of the development on biodiversity, I have found that the proposal would result in harm to the character and appearance of the area having particular regard to the effect on protected trees, contrary to the aforementioned policies of the BLP and LP. This is sufficient to bring the development into conflict with the development plan when read as a whole. Development that conflicts with the development plan should normally be refused unless material considerations indicate otherwise.
32. The Council concedes that it cannot currently demonstrate a five-year supply of deliverable housing sites. The evidence from the Council indicates that the current supply is 2.4 years, which is a very significant shortfall. In this circumstance, paragraph 11(d) of the Framework is engaged.
33. The proposal would result in the unacceptable loss of two protected trees and is likely to result in a detrimental impact upon the long-term viability of the remaining protected trees. This would harm the character and appearance of the area. This harm is contrary to the Framework, which expects existing trees to be retained wherever possible and developments to be sympathetic to local character including the surrounding landscape setting. Consequently, this attracts substantial weight.
34. The development would provide a three-bedroom dwelling and deliver an additional home on previously developed land. Social and economic benefits would arise during construction and after occupation. Additional landscaping, replacement tree planting and ecological enhancement measures could provide minor biodiversity benefits and the

provision of a dwelling on this site could reduce the number of vehicle movements currently made by the appellant on the highway network, which in turn could assist in reducing carbon emissions, providing environmental benefits.

35. The redevelopment of this previously developed land for housing would make an effective use of land in meeting the need for homes in accordance with the Framework. Housing delivery is supported by the Framework and, therefore, this benefit weighs in favour of the proposal. However, as a single dwelling, the overall benefits associated with the development would be relatively limited, even taking account of the objective of significantly boosting the supply of housing in the Framework and the Council's housing land supply position. The proposal is described in a number of documents as a self-build project. Whilst no mechanism has been provided to secure this as such, I also attribute modest weight to this further benefit.
36. Therefore, in the specific circumstances of this case, the adverse impact of the development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework, when taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

37. The proposal conflicts with the development plan when read as a whole and the material considerations do not indicate that a decision should be made other than in accordance with the development plan. Accordingly, the appeal is dismissed.

H Whitfield

INSPECTOR