



Appeal Decision

Site visit made on 15 July 2025

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/C5690/W/25/3358943

Hall, Courtrai Road, Crofton Park, Lewisham, London SE23 1PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against the failure of the local planning authority to give notice within the prescribed period of a decision on an application for planning permission following the failure to respond to notice served under Article 12(1) of the Town and Country Planning (Development Management Procedure (England) Order 2015 (as amended).
 - The appeal is made by Dr Anwar Ansari (AA Homes and Housing) against the Council of the London Borough of Lewisham.
 - The application Ref is DC/24/137333.
 - The development proposed is the repair and refurbishment of hall in order to bring building fabric in line with current standards.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission. As the Council considered that key supporting information had not been provided, the application was not validated. Consequently, there is no decision notice. Nonetheless, the Council has submitted a statement of case which clarifies that, had a decision been made, it would have refused planning permission. In reaching this view, it found that the scheme would not have been in accordance with development plan policies. I have had regard to the statement, insofar that it provides clarity in terms of the reasons the Council would have considered had it been able to do so. I have also had regard to further submissions by the parties throughout the appeal process.
3. Section 79(6) of the Town and Country Planning Act 1990 provides that if, before or during the determination of an appeal, the Secretary of State forms the opinion that planning permission for that development could not have been granted by the local planning authority, they may decline to determine the appeal.
4. The Council has stated that the application was not validated because the appellant failed to provide an Ecology Report, including a bat survey. In support of this position, the Council referred to the relevant 'local list' document¹. However, according to Planning Practice Guidance ('PPG'), a local planning authority may only request supporting information with a planning application if those requirements are specified in a formally adopted 'local list' that has been published

¹ London Borough of Lewisham Validation Checklist: Planning Permission for Minor Development – July 2022

on the authority's website less than two years before the date of the application. In this case, the local list was published in July 2022, and the application was submitted in November 2024, which is more than two years later. As I do not have any evidence before me to indicate that the list requirements were formally reviewed and agreed, the list could be considered to be out of date at the time of submission, and any requirements it contained cannot be relied upon to determine the validity of the application. As such, on the basis of the information I have available, I am satisfied that a valid planning application has been made.

5. Following the submission of this application, a new local plan was adopted on 16 July 2025, which superseded the Lewisham Core Strategy 2011. As the Lewisham Local Plan 2025 (the 'LLP') is now the statutory Development Plan for the Borough, I have determined the appeal on this basis. Notably, the appeal site has since been designated as Metropolitan Open Land. The main parties have had an opportunity to comment on this change in circumstances during the appeal process.

Main Issues

6. The appeal site now falls within Metropolitan Open Land ('MOL') as defined in policy G3 of the London Plan 2021. This policy states that MOL is afforded the same status and protection as Green Belt. I have, therefore, in accordance with this policy requirement, applied the National Planning Policy Framework ('Framework') Green Belt policies to this scheme.
7. While the absence of an arboricultural survey was not explicitly cited as a reason for the Council's decision not to validate the application, had the application been validated, it is likely that the relationship between the proposed development and any protected trees would have been subject to detailed scrutiny, given the potential for indirect impacts during construction. This is particularly likely given the presence of Tree Preservation Orders (TPOs) for 6 individual trees, as well as three groups of sweet chestnut trees. As this appeal encompasses all material considerations the Council would have assessed had the application proceeded to determination, it is appropriate for the lack of arboricultural information to be addressed within this appeal.
8. Within this context, the main issues are:
 - whether the development would be inappropriate development in the MOL having regard to the Framework and any relevant development plan policies,
 - the effect of the proposed development upon ecology and biodiversity, with particular regard to bats, and
 - the effect of the proposed development on trees, specifically those which are protected by TPOs.

Reasons

Whether or not inappropriate development in the MOL

9. The Framework identifies that the fundamental aim of Green Belt policy (in this case applied to the MOL) is to prevent urban sprawl by keeping land permanently

open. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

10. The application relates to the repair and refurbishment of the existing community hall, which would retain its original footprint and height. The appellant indicates that the works would be limited to shoring up the substructure and repairing the superstructure, with no external alterations proposed beyond the existing building envelope. Although external dimensions remain unchanged, a slight internal reduction would result from the increased wall thickness. Nonetheless, it would result in the development of the appeal site.
11. Development in the Green Belt is considered inappropriate, subject to a number of exceptions set out in paragraph 154 of the Framework. Although the appellant has not explicitly put forward any supporting documentation to substantiate any of the exceptions, I have considered that one of the exceptions set out under paragraph 154 c) could apply. This exception states that development in the green belt would not be inappropriate if the extension or alteration of a building does not result in disproportionate additions over and above the size of the original building.
12. Given the limited scope of the proposed development as set out within the plans and related documentation, I am satisfied that no other additions are proposed which could extend or alter the existing building over and above the original building. As such, based on the evidence before me, I am satisfied the proposed development would not be inappropriate development.

Ecology

13. The appeal site is located within the Forest Hill to New Cross Gate Metropolitan Site of Importance for Nature Conservation ('MSINC'), which is considered an important green corridor for a range of wildlife, including protected bat species. Bats have been recorded in the surrounding area and given the building's unused state and the availability of access points, both parties agree that the appeal site likely offers suitable conditions for bat roosting. Bats are legally protected by the Wildlife and Countryside Act 1981, making it an offense to disturb or kill them, or destroy their breeding and resting places.
14. The Framework seeks amongst other things to avoid significant harm to biodiversity. Footnote 68 refers to Circular 06/2005², which provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system. The Circular states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It further states that it: "...is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision". Furthermore, the PPG³ advises that ecological surveys will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant, and existing information is lacking or inadequate.

² Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System

³ Paragraph: 019 Reference ID: 8-019-20240214

15. Although an ecological survey was conducted in 2017, there have been no recent surveys undertaken over the appeal site. As a result, the Council's ecology officer advised that, at a minimum, a Preliminary Roost Assessment should have been conducted and submitted with the application.
16. In response, the appellant states that they would accept a planning condition requiring a full bat survey to be undertaken prior to the refurbishment works, with mitigation measures implemented for bat protection if necessary. However, given the current uncertainty surrounding the presence of bats and the absence of any survey findings, it is not possible to assess the likely impact of the development or the adequacy of any proposed mitigation. As such, the use of such a planning condition would not be sufficiently precise and would not be reasonable in all other respects. As the Circular explains, it is essential that the presence or otherwise of protected species, and the extent to which they may be affected by development is established before planning permission is granted.
17. Therefore, the absence of sufficient information means I cannot rule out potentially significant harm to ecology and biodiversity, with particular regard to bats. The scheme would fail to protect and maximise opportunities to enhance the value of the MSINC, contrary to Policy GR3 of the LLP. The proposal would be contrary to the clear intentions of the Framework and Circular 06/2005 to avoid significant harm to biodiversity.
18. The Council also cites conflict with Policies GR1, LEA4 and GR4 of the LLP. However, the proposed development would not have a direct effect on the provision of green infrastructure or the Lewisham Links. While GR5 of the LLP, which relates to urban greening, may be relevant, the specific implications of the proposal in this context remain unclear. Schedules 7, 8, and 9 of the LLP identify Designated Open Spaces, Sites of Importance for Nature Conservation, and Local Nature Reserves and Ecological Corridors respectively, but none contain specific wording directly related to this main issue. As no relevant wording has been identified, these policies and documents have not been referenced in this conclusion.

Trees

19. Although there is a dispute regarding the designation of the appeal site as Ancient Woodland, the appellant acknowledges the presence of several large established trees which surround the existing building. These trees have well-established root balls and extensive crowns, which must be safeguarded during any development works on the site. Additionally, the order "The London Borough of Lewisham, Land at the rear of 66-114 Buckthorne Road and adjacent to 8 Courtrai Road, London SE4, Tree Preservation Order, 1997" protects several trees at the appeal site, specifically 6 individual trees, as well as three groups of sweet chestnut trees.
20. The appellant's Design & Access Statement states that they seek to shore up the existing substructure and repair the superstructure. While the plans do not indicate the removal of any trees or direct impacts, there remains a significant risk of indirect harm during the refurbishment works, as these proposed works are likely to involve substantial interventions to the building. In light of this, the Council's Tree and Landscape Officer has advised that a tree survey and tree constraints plan should be submitted. These documents could enable an accurate assessment of the spatial relationship between the works and the trees, thereby

ensuring that tree health is appropriately safeguarded throughout the construction process.

21. It is imperative that any impacts on protected trees subject to TPOs are fully assessed prior to the grant of planning permission, to ensure their preservation and to understand the extent to which they may be affected by the proposed development. To date, no arboricultural surveys have been provided to inform the scope and nature of the proposed works. Consequently, it is not possible to accurately evaluate the potential impact of the development or the adequacy of any mitigation measures. In this context, due to the risk of harm, reliance on a planning condition alone would lack the necessary precision and would not meet the test of reasonableness.
22. Therefore, the absence of sufficient information means I cannot rule out potentially undue and adverse harm to trees, specifically those which are protected by TPOs. It has not been adequately demonstrated that the proposed development would retain protected trees, contrary to Policy GR5 of the LLP.
23. The Council also cites conflict with Policy GR3 of the LLP. However, this policy primarily relates to biodiversity and access to nature. It does not contain specific provisions that directly relate to this main issue. As no relevant wording has been identified, this policy has not been referenced in this conclusion.

Other Matters

24. The proposed development would enhance the structural integrity of the existing building and would bring it in line with modern thermal, acoustic and fire performance standards. It would also likely bring the building back into use, which has become derelict and currently attracts anti-social behaviour. Additional features such as the cycle store and a level entrance could improve accessibility and encourage wider public engagement. The appellant has also indicated an intention to source materials, products, and labour locally, which could positively impact local business and the economy. Accordingly, a moderate level of weight is attributed in favour of the proposal.
25. Interested parties have expressed concerns regarding a lack of notification from both the appellant and the Council, as well as the absence of detailed information, including site ownership and the accuracy of the red-line boundary. Additional concerns have been raised which relate to the authenticity of the proposed works and the possibility that they may serve as a precursor to future large-scale development. It has also been suggested that the appeal site may have been designated as an Asset of Community Value, however, there appears to be disagreement among the parties on this point. While I acknowledge these concerns, the Council has not objected on these grounds and it is important that the scheme is considered on the proposal as described in the application. Accordingly, I have found no reason why they should be matters that weigh or fall against the proposal.

Planning Balance

26. I have found that the scheme would not harm the MOL. However, I have identified harm to ecology and trees, including protected trees. This harm, along with the associated policy conflicts, should be afforded substantial weight against the proposal. When considered as a whole, the scheme conflicts with the development

plan. The moderate weight attributed to the benefits would not outweigh this harm and related policy conflict.

Conclusion

27. The proposal conflicts with the development plan taken as a whole and material considerations do not indicate that the appeal should be determined other than in accordance with it. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

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INSPECTOR