



Appeal Decision

Site visit made on 19 September 2025

by **J Smith MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Appeal Ref: APP/Z4718/W/25/3368081

639 Bradford Road, Oakenshaw, Kirklees, Bradford BD12 7EJ

- 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 Mrs I McLean against the decision of Kirklees Metropolitan Council.
 - The application Ref is 2024/60/90533/E.
 - The development proposed is outline application for residential development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development as provided in the application form contains superfluous information. In the interests of clarity and conciseness, I have utilised the description as found on the decision notice.
3. The application was submitted in outline form, with all matters reserved for subsequent consideration. Accordingly, all submitted plans have been treated as indicative. These plans propose the development of two detached dwellings within the appeal site.

Main Issue

4. The main issue is:
 - the effect of the proposal on the public amenity of the area; and,
 - its effect on biodiversity.

Reasons

Public amenity

5. The appeal site comprises part of the garden area to the rear of 639 Bradford Road. Several trees are located within the appeal site which contribute to the leafy and tranquil character of it. T1 is located close to the boundary and is therefore visible from public vantage points along St Andrew's Crescent and Bradford Road, thus providing a positive appearance to the wider locality. This is a benefit to public amenity. Overall, these trees do provide a significant contribution to the character and appearance of the appeal site and the public amenity of the local area.
6. The application was accompanied by an Arboricultural Report and Impact Assessment (prepared by JCA, reference: 22524/LW). The evidence contained within this report notes the descriptions of these trees and the works required to them by the proposed development. This report notes that the site is host to a

number of young to mature and mature aged trees of different types. Critically, at section 4.2, it notes that there is little room for development within this site without the removal of some trees.

7. Trees G3 and T4 are required to be removed, and with regard to G2, the Elder removed and sectioned. Tree T1 is a mature Ash. The evidence before me does suggest that T1 is subject to a Tree Preservation Order. It is noted that no works would be required to be undertaken to it for the proposed development. The arboricultural report also indicates that T1 does show signs of Ash Dieback symptoms, but it does have good future ecological potential. This would suggest that it is not immediately near to the end of its life.
8. The proposed development would require the construction of hard surfacing within the Root Protection Area (RPA) of T1. Tree roots can be damaged when weight is placed upon them. Once damage to the roots has been made, this can cause damage to the tree, including its death. The submitted arboricultural report identifies several measures which would be required to be employed to protect this tree during construction. These include the provision of protective fencing around the entire RPA to create a construction exclusion zone, the use of specialist materials and for the hard standing to be put in place during the final phase of construction.
9. However, these interventions would be employed during the construction phase. It follows that once constructed, hardstanding would be in place above the RPA of T1. In such circumstances, the presence of hardstanding in this location would create an untenable relationship between with T1 and the proposed development. This is likely to have a harmful effect upon its health, including its possible death. As such, it is important to recognise that the development as a whole, would result in the removal of, or subsequent damage to the trees located within the appeal site. This would have a harmful effect upon the public amenity of the wider area when viewed from public vantage points along St Andrew's Crescent and Bradford Road.
10. To conclude, the proposal would be in conflict with Policy LP33 of the Kirklees Local Plan 2019 (LP). This policy notes that planning permission will not be granted for developments which directly or indirectly threaten trees of significant amenity. It further notes that proposals should normally retain any valuable or important trees where they make a contribution to public amenity.

Biodiversity

11. As concluded above, the proposal would result in the loss of, or damage to, trees within the appeal site. The Council note that the appeal site is within an area of Bat Habitats. A Bat Scoping Survey (prepared by Wildscenes, dated September 2024) was provided to support the application. It notes that, of the trees surveyed, that they would not be capable of providing features that bats might potentially use to roost. It further adds that the trees have negligible value to roosting bats with regards and there will be no loss or fragmentation of foraging habitat and no impact to any other bat roosts in the area. Critically, the Council note that the conclusion given within the survey was satisfactory.
12. I now return to the findings of the Arboricultural Report and Impact Assessment, which found that an Ash tree within the site, known as T1, does have good future ecological potential. It is also noted that other trees would be lost which would

provide some ecological potential. The appellant contends that there is clear potential for ecological enhancement and mitigation to be provided at the reserved matters stage of this proposal. Despite this, no mitigation scheme has been provided and as noted by the Council, would not be at this stage. I am cognisant that this appeal proposes an outline application, with all matters reserved for future consideration. There would be opportunity for biodiversity enhancement measures to be provided at a later application stage.

13. In light of the outline nature of the application and the limited likelihood of the existing trees within the site supporting bat roosts, I am satisfied that, subject to the implementation of a biodiversity mitigation scheme, either secured by condition or through a legally binding agreement, the proposed development would not conflict with Policy LP30 of the Local Plan. This policy sets out the Council's commitment to protecting and enhancing the biodiversity of Kirklees. It notes that development proposals will be required to result in no significant loss or harm to biodiversity through avoidance, adequate mitigation or compensatory measures secured by the establishment of a legally binding agreement.

Planning Balance

14. I have found conflict with Policy LP33 of the LP with regard to the effect of the proposal upon public amenity. On this basis, it must be concluded that the proposal is in conflict with the development plan when considered as a whole. Furthermore, the Council is unable to demonstrate a five-year supply of deliverable housing sites. The evidence presented indicates a shortfall, with only 3.96 years of supply currently available.
15. I note the contention between the parties on whether Paragraph 11(d) (i) or (ii) of the National Planning Policy Framework (the Framework) is engaged. The evidence before me suggests that the protected areas or assets of particular importance as listed in footnote 7 of the Framework are not in play here. Therefore, in accordance with Paragraph 11 of the Framework, where the most important policies for determining the application are deemed out of date due to such a shortfall, the presumption in favour of sustainable development is engaged and the provisions of Paragraph 11(d)(ii) of the Framework would apply. This requires that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
16. The Framework aims to significantly boost the supply of housing. In an era of national, and in this case, local housing shortfalls, the provision of up to two additional units would provide a small, but important contribution to that supply. This carries positive, but modest weight to this benefit of the scheme. The proposal would be located in an accessible location. The proposal would generate short term construction employment and economic benefits in the procurement of materials. Once complete, the occupants of the development would utilise local shops and services. These are limited, but still positive benefits of the proposal.
17. The appellant notes that the indicative layout demonstrates that appropriate levels of separation, garden space and parking can be provided and would be provided at the reserved matters stage. However, these details are not before me. Even if these details were available, at most, this would be an absence of harm.

18. Whilst the benefits are acknowledged, these are afforded moderate weight at most. The harm arising to the character and appearance of the appeal site and the public amenity of the wider area, as a result of the removal of or damage to the trees of notable character within the appeal site, would significantly and demonstrably outweigh the benefits of the scheme.

Conclusion

19. For the reasons given above, the proposal would be contrary to the development plan as a whole. There are no material considerations which indicate that I should take a decision otherwise than in accordance with the development plan in this case. Therefore, I conclude that the appeal should be dismissed.

J Smith

INSPECTOR