



Statement of Case on behalf of the Appellant (Trees)

Land adjacent to Braeside House, 49 Bishopstoke Road, Bishopstoke, Eastleigh, Southampton, Hampshire SO50 6BF

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EBC Ref: **F/22/94046**

PINS Ref: **TBC**

BTC Ref: **22113-Proof-Draft1-240323-JB**

4th April 2023



Summary

I am a tree expert specialising in managing trees in a planning context. I am instructed by the Appellant in this Appeal to set out and explain my opinions on the material tree issues. Barrell Tree Consultancy (BTC) visited the site twice, firstly by Lewis Fraser to assess the trees in the context of the original planning submission, and secondly by myself, Jeremy Barrell, in the context of this Appeal. During that process, and from my observations during the second visit, I formed the following opinions:

1. The issue of whether the tree needs to be pruned, and by how much, is irrelevant to this appeal because no pruning is required to construct the building.
2. It would be feasible and within the guidance set out in BS 5837 to construct this building on piles with no significant adverse impact on the root protection areas (RPAs) of adjacent trees, and it would be both reasonable and normal for the detail of this approach to be conditioned as part of a planning consent.
3. It would be feasible and within the guidance set out in BS 5837 to upgrade the surfacing within the RPAs of retained trees on this site with no significant adverse impact on them, and it would be both reasonable and normal for the detail of this approach to be conditioned as part of a planning consent.
4. Unless the LPA can produce evidence that it is losing tree amenity because of successful appeals for severe pruning or felling, and it has not done so to date, then it is difficult to see how any significant weight can be placed on this reason for refusal, especially in the context that no such pressures on trees have come to bear as a result of the existing building, which has an almost identical juxtaposition as the proposed new building to the same row of trees.

1 Introduction

1.1 Qualifications and experience

My name is Jeremy Barrell and I have experience and qualifications in forestry, biology, and arboriculture. I was a tree contractor from 1980–1995, and have been practising solely as a consultant from 1995 until the present day as Managing Director of Barrell Tree Consultancy (BTC) (<https://www.barrelltreecare.co.uk/>). I am an experienced planning and legal expert witness, and a summary of my credentials can be reviewed here <https://www.barrelltreecare.co.uk/assets/Uploads/J-Barrell-CV.pdf>. I also enclose a more detailed list of my qualifications and experience as Appendix 1.

1.2 Instruction

I am instructed by the Appellant, Mrs Jane Bray, to provide expert evidence relating to trees for the informal hearing of the appeal against the decision of Eastleigh Borough Council (EBC) to refuse permission for the erection of a two-bedroom detached dwelling in the garden of the existing property at 49 Bishopstoke road, Bishopstoke, Eastleigh SO50 6BF (Appendix 2).

1.3 Relevant background information

BTC were instructed to provide tree advice relating to the planning application that is the subject of this appeal in July 2022 and my colleague, Lewis Fraser, carried out a site visit to collect the tree data on 12th July 2022. He produced an arboricultural impact appraisal report, BTC reference 22113-AA-LF dated 12th August 2022 (Appendix 3), with a supporting tree protection plan, BTC reference 22113-01 (Appendix 4). In response to feedback from EBC on the trees, I provided further clarification on the issues that had been raised in a letter, BTC reference 22113-Let1-151222-JB, dated 15th December 2022 (Appendix 5). I subsequently visited the site on 24th January 2023 with the Appellant, Mr Burgess, and Mr Fraser, to review the tree issues in advance of submitting the appeal.

1.3 Scope of this Statement

This Statement has been structured to address the EBC's reasons for refusal set out in its Decision Notice dated 20th January 2023 (Appendix 2), and further articulated in the undated Delegated Officer Report, included as Appendix 1 in the Planning Statement I

1 Introduction

summarise the main points as follows and respond to them in more detail in Section 2 of this Statement:

1. There is disagreement about whether the closest tree T13 will need to be pruned (Reason 3 of the Decision Notice). My position is that this is irrelevant in the context of this appeal, and I provide clarification on the reasons why.
2. EBC asserts that harm that will arise to tree T13 because the building is proposed within its RPA and conventional footings will result in root severance (Comments from the EBC arboricultural advisor in the Delegated Officer Report).
3. EBC asserts that there is the potential for harm to retained trees because the proposed upgrade of surfacing near them (Comments from the EBC arboricultural advisor in the Delegated Officer Report).
4. EBC asserts that there will be excessive shading and dominance that will result in future pressure to fell and prune (Reason 4 of the Decision Notice and comments from the EBC arboricultural advisor in the Delegated Officer Report).

1.4 Statement of truth

I confirm that the evidence I have prepared and provide for this hearing is true and the opinions expressed are my own true and professional opinions.

2 Discussion of the issues and my opinions

2.1 Pruning of tree T13

2.1.1 Whether pruning tree T13 is necessary, and its relevance to this Appeal

EBC seems to place significant weight on differences between the tree advisors on the extent of pruning required to tree T13 for safety reasons, but it is completely irrelevant in the context of the prospects of being able to construct the new building without adversely impacting on the tree. By way of clarification, the issue of pruning was only introduced in the planning submission because the applicant was a private homeowner, not a commercial developer, and the BTC approach was one of proportionality to keep construction costs to a minimum through not requiring unnecessary complication in the construction design. I set out detailed explanations on why I think management of the tree is necessary in my letter of 15th December, BTC reference 22113-Let1-151222-JB (Appendix 3), and that remains my view on this matter. I have set out my professional and proportionate assessment based on what we saw, the published and widely known technical guidance on the impact of this fungus on beech, and our experience, which is there for the Inspector to review.

In summary, our view is that all these trees require some proactive management, and specifically tree T13 because of the obvious scale of the fungal infection indicated by the size of the fruiting bodies, but the precise extent of those works is a matter to be agreed between the Parties or at a tree works appeal, and our proposal is what we think is appropriate. Indeed, the crown spread of the tree shown on the submission plan as the green line, which can be confirmed beyond any doubt through a check on site, shows that the proposed building footprint is beyond the furthest extent of the crown in that direction, and no pruning will be required to construct the new building. In any event, the extent of any pruning can be decided through a separate planning submission base on safety and reasonable management, completely independently of this planning application. For the avoidance of any doubt, my opinion is that no pruning is required to implement the planning submission at appeal.

2 Discussion of the issues and my opinions

2.1.2 Opinion 1

The issue of whether the tree needs to be pruned, and by how much, is irrelevant to this appeal because no pruning is required to construct the building.

2 Discussion of the issues and my opinions

2.2 The impact of the building construction on tree T13

2.2.1 The relationship of the new building to tree T13 and other trees along the river boundary

Our plan 22113-01 (Appendix 4) summarises the relevant information on all the trees in the schedule in the top righthand corner, which can be reviewed in more detail in the full tree schedule at pages 15–18 of the full report (Appendix 3). This plan shows tree locations, numbers, categorisations, and nominal BS 5837 root protection areas (RPAs) with grey lines, all in the context of the new building outline shown in purple. For convenience and to assist in understanding the following explanations, an extract of that plan is included as Figure 1 below, focusing on the building location and the RPA for tree T13.

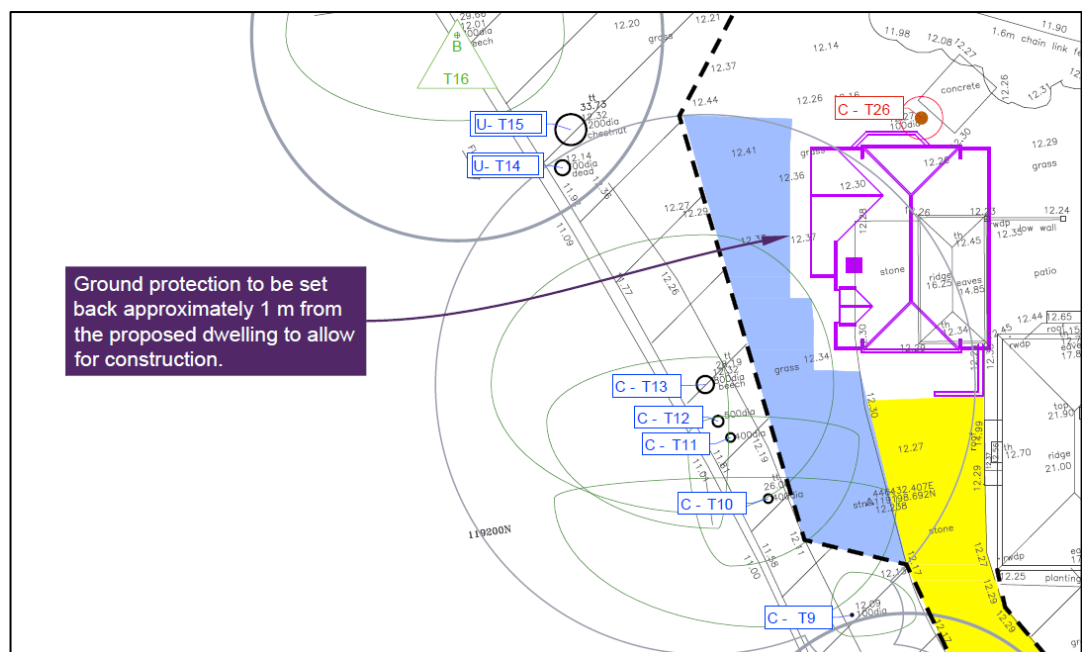


Figure 1: Extract of plan 22113-01 showing the relationship of the new building to the adjacent trees (Proposed building in purple, RPAs of category C trees in light grey, proposed ground protection in blue fill, and special surfacing in yellow fill).

2.2.2 Modified construction of the new building

In our original report, we had not anticipated a LPA objection relating to the pruning of tree T13 because it is such an obvious arboricultural requirement, and so did not advise on using a tree-friendly construction of the building because it did not seem necessary. However, as soon as we became aware of this objection, we began

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discussions with the engineers on upgrading the building design to install it on piles, which is a proven and accepted method for installing buildings within RPAs. This approach is described in BS 5837 clause 7.4 (Appendix 6), and we show extensive examples in our Site guidance Note (SGN) 10 *Installing structures in root protection areas*, submitted with the original planning application as the *Manual for managing trees on development sites* (Appendix 7). We have decades of experience at installing such structures without adversely affecting adjacent trees, and direct the Inspector to photos SGN 10–04 and 10–10 showing elements of a new building installation at the Abbey Road Studios, London, as just one of many examples where this has been successfully carried out. Our assessment is that this approach could be successfully applied in this location, with the detail being a matter that could be conditioned as part of a consent. Indeed, we have seen the preliminary engineering drawings relating to this project, and these confirm that such an approach is both feasible and credible in this situation. They have been included as an additional plan in the appeal submission documents.

2.2.3 Opinion 2

It would be feasible and within the guidance set out in BS 5837 to construct this building on piles with no significant adverse impact on the RPAs of adjacent trees, and it would be both reasonable and normal for the detail of this approach to be conditioned as part of a planning consent.

2.3 The Impact of the surfacing upgrade

2.3.1 There is a wealth of evidence that surfacing upgrades can be done successfully in RPAs

Although EBC accepted that this work could be done in principle, this issue seems to have been raised by EBC on the basis that not enough information was provided to prove it could be done in this situation. Under normal conditions, as clearly set out in BS 5837 clause 7.4 (Appendix 6), new hard surfacing and surfacing upgrades is feasible and acceptable in RPAs. In our experience, which aligns with the BS 5837

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recommendations, the only reason why installing new surfacing or upgrading existing surfacing cannot be carried out within RPAs is if there is a requirement to excavate into the soil that roots are growing in or the area of new surfacing exceeds 20% of the RPA. As far as I am aware, neither of these restrictions apply in this situation, and specifically there is no level restriction anywhere near the precautionary area shown in yellow on the tree protection plan that could possibly prevent or restrict a surfacing upgrade being carried out according to the details set out in SGN 9 *Installing/upgrading surfacing in root protection areas* (Appendix 7) without any adverse impact on the adjacent trees. It is completely within the guidance set out in BS 5837 and practical knowledge from decades of experience carrying out this type of work that it can be done. I am not aware of any reason why it cannot be done as illustrated in this situation, and where there is no doubt about its feasibility, it would be normal for the detail of proposals to be provided in response to a planning condition, not in advance of being given consent.

2.3.2 Opinion 3

It would be feasible and within the guidance set out in BS 5837 to upgrade the surfacing within the RPAs of retained trees on this site with no significant adverse impact on them, and it would be both reasonable and normal for the detail of this approach to be conditioned as part of a planning consent.

2.4 Future pressure to fell

2.4.1 The lack of evidence that future pressure to fell is a valid concern

Future pressure to fell is a subjective matter that LPAs often raise as a spurious and make-weight reason to object to planning proposals, when there is no evidence to support the contention that it has resulted in unreasonable tree pruning and removals in its jurisdiction. Indeed, my experience is that PINS is heavily supportive of LPAs at appeal trying to resist unjustified appeals to severely prune or fell, so this cannot reasonably be a valid objection to a planning proposal unless the dominance and shading is both obvious and excessive. In this situation, the belt of trees is to

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the west of the proposed new building and the existing building, and at a similar distance to both. The current relationship to the existing building has not resulted in unreasonable applications to fell or prune this row of trees because they are causing excessive shade or oppressive, and so it is difficult to see why this should suddenly become an issue with a new building with an almost identical juxtaposition to the trees. Indeed, it is often the case now that there is raised awareness of the increased temperatures likely because of climate change, that shade is valued for its cooling benefits, and not generally seen as oppressive or an inconvenience unless it is present throughout the day, which is not the case in this situation. In such matters, it is for the Inspector to stand on site where the new building will sit and form a view on whether this is a concern worthy of significant weight, and we invite the Inspector to do so during the site visit.

2.4.2 Opinion 4

Unless the LPA can produce evidence that it is losing tree amenity because of successful appeals for severe pruning or felling, and it has not done so to date, then it is difficult to see how any significant weight can be placed on this reason for refusal, especially in the context that no such pressures on trees have come to bear as a result of the existing building, which has an almost identical juxtaposition as the proposed new building to the same row of trees.



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