

Re: Planning Appeal to Secretary of State, under Town and Country Planning Act - Order 2015, against Havant Borough Council's decision to refuse Planning Permission, dated 16/03/2022
Application Number: APP/21/01110
Address: 27A Queens Road, Waterloooville, Hampshire, PO7 7SB

Appellant – Full Statement of Case

Please see attached separate list of appendices.

1. Introduction

Please see Summary Points response (6) as a background/introduction to the project, leading up to the issue of the Refusal Decision Notice/Report (7 & 8)

In progressing this project, I undertook the following steps to engage fully with HBC at every stage:

1. Obtained general project advice;
2. Undertook a Planning Pre-Application exercise (1) *
3. Submitted a Householder Application, inclusive of all requirements recommended in the pre Planning Advice including: Tree Survey, Impact Assessment and Method statement, then following the raising of the matter of ancient woodland (not previously mentioned by HBC at any stage) to,
4. Provided additional historic information on the pre-existing ground conditions: paving, steps, terraced flower beds and hard surface constructions, including a swimming pool and pool house, all located within the area of the trees with TPOs and into the woodland area. (3) This extra information was provided by the owner of the former single house No 27 which was demolished in approx. 2010 to allow for the current houses, Nos 27, 27A and 27B to be constructed. The pictures and information provided on attachment (3) show clearly the earlier extensive paving, patios, walls, water fountain and swimming pool /deck, pool house and terraced flower beds areas, all of which still remain and were landscaped over with a thin depth of topsoil and grassed over when the current houses were built.
5. Received from HBC (5) map for site and surrounding areas defining trees with TPOs and woodlands.

6. Submitted Project Summary response (7) in attempt to mitigate and consider the key issues:

- Protection of the trees: The extensive measures proposed by the Arboriculture Consultant to protect and to ensure no potential injury would be caused to the trees (2b.2c,2d)
- Confirmation that the total area of the proposed mini piles at 0.44 square metres is just 0.059% of the T1 Oak tree RPA which measures in total 734.359 square metres (2a)
- Pictorial proof of extensive and existing buried paving and constructions which remain just below the surface of the recently landscaped garden and woodland areas (3)
- Pictures of the many tons of concrete, brickwork, old steelwork, glass and rubbish in the woodland area, that had been in situ since before 1984, and has been removed by us to reduce the load on the tree root systems (3)
- Confirmation that we have undertaken approved HBC tree pruning of the Oak Tree to improve its overall condition.
- Confirmation that we have undertaken approved HBC tree pruning of the Yew Trees T2, T3 & T4 to remove dead limbs and improve their condition

Notes:

- a. (1)* You will note that Trees/TPOs were mentioned in the HBC Pre-Application response, specifically that we would need a tree protection plan, impact assessment and method statement with any application.
- b. Note regards to the location of the Trees with TPOs: See (2c), (5)
 - T1 Oak – located in the front garden area of 27A Queens Road
 - T2 Yew – located on the boundary between 27A Queens Road and 31B Queens Road, and the property of the owners of 31B Queens Road, Map (2C) and (5) show this tree within the Ancient woodland area, but its trunk is predominantly in the rear garden area of 31B
 - T3 Yew – located front garden 27A (not located in Ancient woodland)
 - T4 Yew – located in garden to 27 and TPO Woodland

2. Appellant Reasons for the Appeal

I consider that HBC:

1. Did not properly consider and allow for the full facts, information and pre-existing site condition images that were provided with the application, nor any of the additional information provided
2. Made inaccurate and misleading statements in the Delegated Report (8) – suggesting specifically that both ground levels would be changed, and that trees would need to be pruned, both are incorrect statements
3. Failed to consider this application as a possible ‘Wholly Exceptional Case’, (9), due to the pre-existing site conditions nor have they realistically assessed the proposed construction before making their decision
4. Failed to give similar and appropriate consideration to this application in comparison to that given to other similar and recent projects in the immediate area.

For these reasons I wish to Appeal HBC’s decision

3. Response to Reasons for Refusal

In this Appeal I will challenge the stated reasons for the Council's decision to refuse planning permission as below (7), and comment on extracts from the Delegated Report (8).

I will submit also for consideration, additional information on Approved local projects that are pertinent to the Appeal of the Refusal Decision.

HBC Reason for Refusal: 1 The siting and close proximity of the proposed development would result in potential damage to TPO and veteran trees and ancient woodland important in the local landscape. The siting of the development within the root protection area of these trees would be putting at undue risk the long term conservation of the trees. It is therefore contrary to policy DM8 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

1. ***Decision extracts: "The siting and close proximity of the proposed development would result in potential damage to TPO and veteran trees"***

...and *“The siting of the development within the root protection areas would be putting at risk the long term conservation of trees”*

Appellant response:

I disagree with this statement, the Application was developed with support from an independent expert Arboricultural Consultant, please see (2b) Appendix MD7 Qualifications and Experience. The entire purpose of instructing Dr Martin Dobson was to ensure the absolute protection and wellbeing of the trees at the site with TPO's.

Further to receipt of the guidance from HBC at Pre-Application advice stage, I engaged Dr Martin Dobson to develop an independent Report covering: Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement, including a Tree Protection Plan and Tree Constraints Plan (2b,2c,2d). Please see the Report in full, and note the provisions included to ensure protection of the trees, of particular importance the following extracts:

1. (2b) 1 Introduction Clause 1.2: Report complies with British Standard BS5837:2012 Trees in relation to design, demolition, and construction – Recommendations
2. (2b) 1 Introduction Clause 1.6: “Methods of construction are proposed in this report which will protect trees and minimise any harm to their root system”
3. (2b) 2 Tree Survey Clause 2.5: “Adequate Protection, both above and below ground” afforded by compliance with British Standard BS5837:2012
4. (2b) 4. Arboricultural impact assessment 4.3 Tree pruning ...”No pruning work is required to facilitate the proposed developments there is sufficient space between the buildings and retained trees for all works to take place without conflict arising”
5. (2b) Tree protection 4.5 Compliance with allowable development standards and great care required for T1 Oak tree to ensure that construction is as far as possible above existing ground level, so that roots are not harmed
6. (2b) Tree protection 4.7 Pile and Suspended Raft floor construction, total cross-sectional area of mini piles 0.05% of T1 Oak tree RPA area, to allow for continuous gas and water infiltration

7. (2b) Tree protection 4.8 “Proposed driveway will be constructed with an above ground no-dig construction to prevent inadvertent damage to roots and plants”
8. (2b) Tree protection 4.10 “It is considered that the tree protection measures combined with careful arboricultural supervision will allow the garage and driveway to be constructed without harming trees”

Additional Comments/Corrections to Delegated Report (8)

1. Item 5, it is suggested that *“the height of the garage will require pruning of the Yew trees”*, this is incorrect please see 1.4 above ...no pruning required.
2. Item 5, *“The site is not level that there will no doubt be changes required within the area of the RPA.* This statement is incorrect, please see 1.7 above. The proposed garage is constructed above ground level and supported on mini piles, with an air void below, the proposed driveway is above ground of no-dig construction and therefore no impact to site levels or tree roots.
3. Please see Site Map (5) - Please note repeated instances shown on the plan where houses have been built close to trees with TPOs in place:
 - At my property 27A Queens Road – built in 2009, on the southern boundary with 10 Deanswood Drive there is a very large Oak tree in its back garden and approximately 4m from the back of that house, the RPA of this tree would certainly extend to foundations of my property for which deep strip foundations were approved. Application App/07/55343/003 was granted by HBC 21 August 2008.
 - 23C Queens Road has a 7.50m x 3m timber outbuilding in its rear garden this is located within 2m of a large Oak Tree with a TPO located in ancient TPO woodland and within the RPA of a further 2 Oak Trees with TPO, Application App/13/00996 was granted 10/12/2013. This building has been constructed on 15 450mm x 450mm concrete pads with a cumulative area of 3.04sq.m, sitting on the ground and over the RPAs of the three trees, this design will have added crushing load to the roots below in the RPA zones, unlike the design for my application which incorporates mini piles, cumulative area 0.44sq.m with the key differentiator that my proposed design realises a careful hand dig exercise to start each pile and then with the pile and slab design all loadings will be

passed into the ground below the level of tree roots and cause no injury.

2. **Decision extract:** *“The siting and close proximity of the proposed development would result in potential damage to ancient woodland important in the local landscape”*

Appellant response:

I strongly disagree with this statement and the position and potential risk suggested by HBC for the following reasons:

Please see (2c) and note that only 14.00 sq. metres, a very small area, of the proposed garage will be located at the edge of the woodland area, and wholly over the area developed by previous owners, who undertook the construction of extensive hard landscaping and features prior to 1980, mainly in concrete and brickwork to the rear garden (3), including:

- A Swimming Pool with terraced paving
- Garden walls
- Pool House
- Pathways, Patios and Steps
- Water Fountain
- Terraced flower beds

The picture (3) was taken before 1984 and shows the garden circa 2009, when the previous house was demolished and garden was re-landscaped, all existing features were simply buried with topsoil and grass seeded, except the Pool House which was demolished. The pathways and Pool House extend into the garden area now designated as semi-rural woodland, and the Oaktree has a paved pathway around the base at ground level.

By the late 1980s the woodland area had become in part a garden feature area and a general dumping ground for many tons of concrete, brickwork, steel mesh and rod reinforcement, glass and rubbish.

To reduce and mitigate the risks we have removed this waste, reducing additional load on the tree roots and H&S risks posed.

Unfortunately, we cannot deny the existence of these 40 – 50 year old constructions, reverse any historical impacts they may have caused, or for that matter remove the earlier constructions as good tree preservation practice requires that they must remain in situ, as any breaking up and removal may cause damage to the underlying tree roots.

Nor can we remedy and return the area to its earlier undisturbed state, we seek only through very careful construction methodology to construct over the pre-existing installations and earlier excavations, and through very careful construction methodology cause no further injury to the woodland.

We therefore disagree that the proposed development poses any potential (further) threat to the woodland area, and furthermore that HBC have not properly allowed for the pre-existing site conditions in considering their refusal.

Additional Comments

Please see Site Map (5) Your attention is drawn to the location of 27 Queens Road, you will note that this house and its surrounding pathways are constructed, in part, directly with the defined TPO /Ancient woodland area, it was constructed circa 2009, HBC approval of Planning Application APP 07/55343/003. There remain a number of very large trees on this site including Yew.

- 3. Appellant submission: HBC Failed to consider this Application as an 'Exceptional Case' due solely to the pre-existing site conditions, and properly assess the actual site conditions fully and the construction and operational effects of the proposed project before making their Refusal Decision.**

I believe that HBC had the opportunity to consider this Application as a "wholly exceptional case" due to the pre-existing site conditions, and the impossible task of removing and reinstating the areas affected by earlier grounds works without causing damage to the tree roots. This option would have allowed HBC to properly assess the effects of the development and consider both the construction and operational effects

of the proposed development, and in the light of the reality of the site conditions. This option was never suggested by HBC, during the Pre-Application Advice exercise or during the Householder Application period.

Please note that during the Application period I did suggest to the Case Officer that an Assessment Report as per Forestry Commission / Natural England advice be jointly conducted to properly and fairly capture all relevant site information and help inform the process/decision. I was told this was not necessary. However, and in hindsight I wish I had pushed this further at the time.

Instead I believe that HBC have been over zealous and approached the application as though the site was a virgin and intact Ancient Woodland, with a mix of Ancient and Veteran Trees. This is clearly not the situation today at site, mostly due to earlier construction works detailed above and the re-landscaping carried out circa 2011. Also to note the most important tree the T1 Oak is in my front garden, not in the Ancient woodland and T2 and T4 are located in my neighbours' gardens.

I have included this point in my appeal statement because I consider it would have been a more appropriate approach than that taken by HBC , I was and remain willing to discuss and agree mitigation measures with HBC in order to improve the woodland area further in addition to the clearance of the many tons of rubble and rubbish undertaken in 2020.

4. Appellant submission: HBC failed to give similar and appropriate consideration to this Application in comparison to that has given to other similar recent projects in the immediate area.

I have noted above two relevant applications that were recently granted and support this Appeal:

- 27 Queens Road: HBC approved APP07/55343/003, 20 March 2008. Refer (5) and note that the large house and pathways are part built within the same TPO woodland/ancient woodland area as the Application site.
My proposed garage will cover just 14.00 sq.m at the edge of the Ancient Woodland with the remaining area being located in my

garden. Both 27 and my garages have bored piles with a suspended slab.

- 23C Queens Road: HBC approved APP/13/00996, 7 October 2013. HBC approved the construction of a timber outbuilding near to the boundary of a TPO Ancient woodland, within the RPA for three trees with TPOs and within 2m of a large Oak. A very similar project to my application that was approved, however with above ground pad foundations immediately bearing on the RPA areas

5. Summary

Having positively progressed with HBC, firstly obtaining arboriculture/planning advice, through Pre-Application Advice stage, then by submission of a Householder Application, inclusive of all their guidance I expected approval. At no point before submission of the Householder Application was I informed by HBC that the site was in part within an Ancient Woodland or that the Oak Tree T1 located in my front garden was a significant issue.

On receiving the HBC objection I provided new evidence showing the history and extensive pre-existing development asking for this to be taken into consideration, in conjunction with the very careful construction methods planned to include hand digging to ensure no damage or risk to the tree roots. Regarding potential impact on the ancient woodland and again considering the pre-existing conditions, I believed I would be causing no further impact or risk to the area. I maintain that I have actually improved the area.

HBC were over zealous in reaching their decision, they did not fully consider or allow for existing site conditions, nor previous approved planning applications.

The Deferred Report to the decision is incorrect and misleading.