



15th December 2012

FAO: Jacky Parsons

Email: east1@planninginspectorate.gov.uk

Your Ref: APP/X1735/W/22/3300489

The Planning Inspectorate
3C
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Ms Parsons

Re: Town and Country Planning Act 1990

Appeal by Martin Norris

Site Address: 27a Queens Road, Waterloo, PO7 7SB

I acknowledge receipt of your letter dated 12th December 2022, with attached Havant Borough Council (HBC) Statement, and suggested HBC Conditions Statement in respect of the above Appeal.

I wish to confirm my submission of comments in respect of both above documents.

Please note that the Planning Inspectorate reference shown on the Havant Borough Council (HBC) Statement is APP/X1735/W/22/330048. This is incorrect as it should be APP/X1735/W/22/3300489. I have assumed this is an error by Havant Borough Council and have proceeded to prepare my comments to their Statement and Suggested Conditions as below. You may wish/need to ask for this mistake to be corrected by the Council.

Please also note that both HBC documents are undated.

As mentioned above I wish to formally comment on the points raised in

1. HBC - Appeal Statement, and
2. HBC - List of Suggested Conditions

Please also note that following a telephone conversation with Mr Chris Nash of The Planning Inspectorate, and in compliance with his instructions I have included very recent HBC information regarding an existing Car Port construction at my immediate neighbour's property 27b Queens Road. This information is detailed under 3.0 below and is provided in support of my Appeal.

This submission should be read in conjunction with:

1. My Appeal submission, all documents submitted including Full Appellant Statement and supporting information
2. Appendices to this letter as attached:
 - a. HBC Appeal Statement (includes c as below)
 - b. HBC List of Suggested Conditions
 - c. Planning Officer Report 23/12/2022 – Recommendation to Refuse Permission (Appendix E to 2a. above)
 - d. HBC Letter 12/12/2022 Confirming HBC Planning decision ref Garage at 27b Queens Road
 - e. Full Appellant Statement of Case – Martin Norris
 - f. Gov.UK Guidance from Natural England and Forestry Commission, published 14 January 2022: Ancient woodland, ancient trees and veteran trees: advice for making planning decisions
 - g. Site Plan for Garage at 27b Queens Road with TPO trees and proximity measurements to TPO Trees
 - h. Plan from Tree Preservation Order 1629 Dated 18/08/95, for the previous site of 27 Queens Road.

Please see my response comments as below, together with my summary conclusion for consideration

Comments to:

1. HBC Appeal Statement
2. HBC List of Suggested Conditions, and
3. HBC information update regards Car Port Approval at 27b Queens Road
4. Summary & Conclusion

1.0 HBC Appeal Statement – Martin Norris' Comments

1.1 I have thoroughly read through the HBC Statement comments provided by HBC to my Appellant submission.

1.2 Within HBC Appendix E Planning Officers Report - Section 7 HBC confirms that the following three principal Planning Considerations each received a positive review and approval position within the Planning Officer's Report, specifically:

1. Principle of Development – ref 7.2 & 7.3
2. Appropriateness of design and impact on the character of the area- ref 7.4 – 7.6
3. Effect on neighbouring properties – ref 7.7 & 7.8

1.3 HBC also confirms in Appendix E Planning Officer Report – Section 6. Community Involvement that:

Number of neighbour notifications sent: 5

Number of representations received: 0

1.4 Under HBC Appendix E Planning Officers Report - Section 7 HBC advises under Planning Consideration 4. Trees – ref 7.10 the reason for refusal of planning permission with the Recommendation – Ref 9.0 to Refuse Permission as follows:

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'

(Extract from 2.C Planning Officer Report: 9.0 Recommendation to Refuse – Appendix E document from HBC Statement.

1.5 Please also note that HBC confirms under 7.11 that I proposed, as a potential solution, that the garage be brought forwards so that it was not sited on any area designated as Ancient woodland, but this was not considered acceptable, because the garages would still be in the RPA of the Oak Tree

1.6 HBC has not commented in their Statement on the inaccuracies reported in the Appendix E – Section 3 Planning Officer report specifically:

1. It is suggested that “the height of the garage will require pruning of the Yew trees”, this is incorrect...no pruning required as confirmed by Dr Martin Dobson (Please see Appellant Full Statement)
2. “The site is not level that there will no doubt be changes required within the area of the RPA”. This statement is incorrect. 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. (Please see Appellant Full Statement of Case)

1.7 Under Section 6.9 Natural England and Forestry Commission 'Standing advice' HBC Statement advises that: planning should be refused unless:

there are wholly exceptional reasons
there's a suitable compensation strategy in place

Please see Appendix F – where I have provided a fuller extract from:

Appendix F:

Gov.UK - Guidance from Natural England and Forestry Commission, published 14 January 2022: Ancient woodland, ancient trees and veteran trees: advice for making planning decisions

Please note that the Guidance provides 'Standing Advice' on:

Ancient and Veteran Trees
Making Decisions
Assessing the Effects of the Developments

The Guidance provides to allow for a full assessment of the site and existing conditions to be considered in making the Planning decision.

I do not consider that HBC took due notice of the existing site conditions and earlier constructions and works that significantly affected both the area designated Ancient Woodland and the Veteran Trees and other Trees with TPO orders in place.

When I was made aware of the objections relating to the Trees and Ancient Woodland, I was very surprised because I had followed every piece of advice and instruction from HBC from the initial general contact onwards, through the HBC Pre – Planning Application exercise and the HBC Full Planning Application submission.

My neighbour at No 27; the Developer of the three houses at 27, 27a and 27b; then told me of the history of the site. Previously the site was for one large house No 27 with a large garden. My neighbour provided photos of the rear gardens circa 1980 when the previous extensive landscaping and paving had already been in place for some considerable time and extended across the whole of my now 27a front garden and into the area designated as Ancient Woodland. The photographs showing the largely landscaped areas with hard paving, a swimming pool with surrounding paving and a pool house, terraced brickwork and stone flower beds, various flights of steps, a water fountain and extensive gravel and stone pathways and patios that covered the areas of my front garden and into the area designated as Ancient Woodland. I provided this photographic information that showed the gardens circa 1980. I also carefully excavated a number of small trial holes across the front garden to show that the old landscaping remained pretty much intact under the thin layer of recently added topsoil to prove that the previous groundworks and features had simply been left in-situ and soiled and grassed over.

Given the scale of the previous constructions I considered it was not unreasonable to continue with my Planning Application on the premise that previous owners of the site had undertaken such a scale of landscaping and construction works so as to realise a 'wholly exceptional reasons' position in respect of the site and proposed project, because the whole of my front garden and the small ancient woodland had been comprehensively remodelled a number of times, and that it was reasonable fair and appropriate to accept that the areas could not be changed back to their original condition. Accepting the site conditions as irreversible I also reviewed my proposed plans for the construction of the foundations and further to discussion with

Dr Martin Dobson concluded that, with very careful mini pile excavations, we could maintain the proposed construction plan and ensure no potential risk to the trees, all as earlier planned.

Please note within Full Appellant Statement 1. Introduction Item 6, Bullet point 2 I have advised: 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

HBC visited the site and I showed the Officer in detail the scale of the older works, but they were unwilling to accept my position and would not even discuss the situation fully.

I also offered to undertake an 'impact assessment' as per Natural England guidance, to properly measure the current and potential impact scenarios, but was told that this was not necessary.

In addition, as above noted I proposed at one point to move the garage forwards towards the main house so that no part of the garage was in the Ancient Woodland area, again I was told this was not acceptable by HBC. My actual preference was to site the garages where originally proposed as I consider it to be a better position.

I discussed the actual site conditions and application with HBC, but at no point were HBC willing to discuss my position as a possible acceptable solution, so we unfortunately ended up with a Recommendation to Refuse, and an Appeal

1.8 Please also note the information provided under HBC Statement of Case.pdf - Appendix D. The map clearly designates the area which has previously been referred to as Ancient woodland is shown with the designation of a TPO Area with 3 x TPO points shown

1.9 I stand by the information and the reasons for my Appeal as provided in my Appeal Full Statement of Case, with supporting information.

My Appeal is based on the facts 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 – 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 and the comprehensive protection to trees and roots measures proposed 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.

2.0 HBC List of Suggested Conditions – Martin Norris’ Comments

I would like to comment on the Suggested Condition below:

HBC Suggested Condition: (Not numbered on list provided): Details of piling method to be agreed with the local planning authority prior to commencement of development.

Reason: To safeguard against undue damage to existing trees and/or other vegetation at the site and having due regard to policies CS11.2 and CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.

Comment – Martin Norris: In developing a scheme to best protect the trees Dr Martin Dobson developed the most appropriate scheme using mini concrete piles, with a floating edge beam and suspended slab with an appropriate compressible material filled void. I would like to retain the foundation design and piling methodology proposed using small, powered augers, rather than piling rigs to ensure no potential damage is caused to tree root systems. Subject to actual ground and subsoil conditions and bearing capacities found as piling excavations are undertaken

3.0 HBC information update regards Car Port Approval at 27b Queens Road

Background

Approximately three years ago my neighbours at 27b constructed a large carport in the area to the front of their house, an area next to the area where I have proposed to construct a garage.

Prior to commencing my planning exercise for the new garages at 27a Queens Road I asked my neighbour if they had received all necessary Planning and Building Control approvals for the Car Port. I was assured they had.

So, when I commenced discussions with HBC in respect of my project, I mentioned the recent Car Port next door to the Planning Officer and said that I would be referencing the Car Port as supporting evidence for my application.

However, I was informed by the Planning Officer that no permission had been granted for the Car Port at 27b Queens Road. I asked the Planning Officer to double check and was told that there was no record of any Planning application being made. I could therefore not use the Car Port project at 27b as an HBC Approved project, so did not include this in my Planning Application.

However, I now understand that HBC have reviewed this matter from a Planning perspective and have decided to take no compliance action and have closed the matter. [REDACTED]

By this action HBC has effectively granted Planning Approval for the Car Port, and all components of its siting, its construction and its impacts.

The Car Port is 7.40M wide x 5.20M deep x 3.50M high. Its construction comprises 9 Timber posts to mass concrete foundations 0.60M x 0.60M x 0.90M deep with top face of foundation at ground level, the posts support a flat timber roof, with a raised pitched roof detail running across the front elevation.

The Car Port is located in the position as shown on the attached site plan Appendix H, with important TPO trees x 3 also identified:

1. T4 – Oak
2. T10 Silver Birch
3. T6 Oak.

Please see Appendix I Tree Preservation Order Plan 1629, for 27 Queens Road dated 18/08/95, this is the site as laid out prior to the 2008 development of three houses.

Also shown are the dimensions:

1. Dim 1 – 1.00M distance between the East side of the Car Port to T6 Oak trunk

2. Dim 2 - 0.50M distance between the West side of the Car Port to T10 Silver Birch
3. Dim 3 – 2.00M distance between the Car Port West side to the canopy of T4 Oak

Please see pictures below of the Car port for information



Front and West side – T6 Oak shown on East side of Car Port



West side showing separation to Silver Birch T10 and Oak T4



Part Front Elevation and East Side with T6 Oak



Concrete mass concrete foundation, 1 of 9, 600mm x 600mm x 750mm deep

In review of the matters under consideration for my proposed project I would like to table the following key points for consideration that have been 'Approved' on my neighbours Car Port

1. Proximity to Trees: The Car Port has been constructed in very close proximity to three important Trees with TPO's:
 - a. T10 Silver Birch – less than 0.5M separation to trunk, tree canopy over sails the Car Port
 - b. T6 Oak – less than 1.00 M separation from trunk, tree canopy over sails Car Port
 - c. T4 Oak Veteran Tree – less than 2.00M from canopy5 to Car Port (far less than HBC Policy requirements)

Both the Silver Birch T10 and Oak T6 are closer to an important tree with TPO's in place. In respect of the Oak Veteran T4 the Car Port is by HBC rules non-compliant by being close to the canopy.

2. Foundations size, design and location and impact on Trees RPA's: The nine Car Port mass concrete foundations are 600mm x 600mm x 750mm deep, they commence at ground level and are buried for their full height. Located as they are each block punctures through the shallow tree root systems. Silver Birch trees are renowned for having shallow roots. Where they do not pass fully through the root system, they will bear down on the underlying root systems. The overall mass foundation footprint area that has been constructed for the Car Port is 3.24 square metres, and the position of the foundations is fixed by the timber post locations above and on a grid pattern.

In comparison the pile and floating beam slab designed for my project is designed to specifically pass all loads carefully through the root system to the substrata, transferring all loads to the ground below the root systems and minimising any impacts, using a system of micro plies with at total area of 0.44 square metres; just 31% of the are approved for the Car Port at 27b; with the position of each pile flexible so that the pile can be placed to miss all important roots and remove any risk

Given the recent approval of the Car Port at 27b Queens Road by HBC and having discussed its inclusion within my appeal as below I now confirm that I have added this project to the similar projects identified under 4, as per my Appellant Full Statement, and request that HBC gives the same consideration to my project.

I discussed this matter with Chris Nash at the Planning Inspectorate and was told that as this information and matter was raised with HBC at the start of my Planning exercise, that HBC were fully aware of the matter and that this information constitutes an allowable update.

4.0 Summary – [REDACTED] comments to HBC Appeal Statement

Please consider the comments and information as provided above.

In preparing and submitting my comments to the HBC Appeal Statement and the HBC Suggested Conditions I have attempted to respond to the points made by HBC.

HBC in their statement confirm that my Application for Planning Approval received positive responses from the HBC Planning Officer in respect of the **Planning Considerations:**

1. **Principle of Development**
2. **Appropriateness of design and impact on the character of the area**
3. **Effect on neighbouring properties**

HBC, following a fully compliant Planning Application **Community Involvement** exercise by HBC advised that **no representations were received**

HBC has advised the reason for the Council's decision to refuse planning permission as 4. **Trees**

1 The siting and 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.

HBC in its Appeal Statement has failed to fully respond to the reasons for my Appeal, as per my Full Appellant Statement, specifically 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. Note: HBC has not explained why they choose only to approach this project as though the site is in an unspoilt original condition, when there is overriding physical and historic evidence of the extensive previous groundworks and installations that cover the garden and woodland areas for the project. HBC consider this information and knowledge unimportant to the project assessment and decision. Provision is made in the Gov.Uk 'Standing Instructions' to properly consider and allow all existing site conditions' which HBC appear not to have done, nor do they wish to comment more on this at this point. The existing ground conditions are key element to the assessment and award process?

HBC in its Statement Comments focus on very selected policy 'extracts' to support its decision to Refuse Planning Permission. I too wish to retain and protect the trees and land under my care and have undertaken two significant pieces of work to help protect the trees and land. Firstly, I arranged for a pruning exercise of the T4 Oak to remove dead and dangerous dying limbs and reduce the canopy to a healthy state and scale. Secondly, I undertook a major clearance of rubble concrete and glass etc from the woodland, for both H& S reasons and to take the load off the ground pressure loading on the tree roots. Both exercises were undertaken to improve conditions, and not as any form of Compensation event to in part support my Planning Application, however, as mentioned in the HBC comments I should have provided a compensation proposal and was told this was not necessary.

2. Made inaccurate and misleading statements in the Delegated Report – suggesting specifically that both ground levels would be changed, and that trees would need to be pruned, both are incorrect statements.
Note: Neither of these errors have been explained by HBC in the Statement
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 and the comprehensive protection to trees and roots measures proposed before making their decision

Note: Please see 1 above in respect existing ground conditions HBC has chosen not to comment on the comprehensive proposals for piled foundations within the RPA areas of the TPO trees. Designed specifically to ensure no potential harm would be caused to the trees. They have

failed to comment on the fact that the piling area in total is a minimal area at 0.44 square metres of the RPA area for the T4 Oak of 734.359 square metres of 0.059%, with the piles being hand for the first 600mm depth to ensure no issues with pile placement and tree routes. I followed HBC exact guidance and instruction when compiling the Application, submitting a design solution for pile foundations near TPO trees that would normally receive full approval for TPO trees.

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. *Note: HBC suggests in its comments that the examples provided are perhaps not that strong in supporting my Appeal.*

I consider the examples given are all very relevant because they each demonstrate instances where HBC granted Approvals for projects that were very close to extremely large trees.

The HBC approval for the 07/55343/003 Demolish existing house and erect 3No. detached houses. (Revised Felling of 4No. trees subject to TPO 1629 and Woodland 1 of TPO 1629. (PERM), realised at the site of the new No 27 the construction of a very large house with a significant area being constructed in a TPO Woodland and Ancient Woodland space. This property is the closest to the T4 Veteran Oak and HBC approved the pruning of this tree approx. three years ago when the major limbs to the West sides this tree were near touching the house.

The HBC recent approval of the Car Port Project at 27b Queens Road is also significant and a wholly relevant reference project, being a similar project on a site right next door to mine. Information on this project has been submitted with this response for consideration by the Planning Inspectorate. With this project added to the examples already provided I consider that I have provided a comprehensive set of case studies in support of my application.

Given the above I would respectfully ask that the Planning Inspector uphold my Appeal.

Yours Sincerely

