



## Appeal Decision

Site visit made on 20 September 2022

**by A Tucker BA (Hons) IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 October 2022**

**Appeal Ref: APP/X0360/W/22/3297227**

**Silver Birches, Highlands Avenue, Barkham, RG41 4SP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Russel Pike of A1 Group against the decision of Wokingham Borough Council.
- The application Ref 214166, dated 23 December 2021, was refused by notice dated 1 March 2022.
- The development proposed is change of use from residential curtilage to parking for A1 recycling centre.

### **Decision**

1. The appeal is allowed, and planning permission is granted for change of use from residential curtilage to parking for A1 recycling centre at Silver Birches, Highlands Avenue, Barkham, RG41 4SP, in accordance with the terms of the application, Ref 214166, dated 23 December 2021, in accordance with the following submitted plans: 3121 01 Rev C and location plan reference: p8b/uk/729831/987084, and subject to the conditions set out in the attached schedule.

### **Preliminary Matters**

2. The development has already been carried out. I have considered the appeal on this basis.

### **Main Issues**

3. The main issues are:
  - a) Whether the site is suitably located for the development with regard to local planning policy,
  - b) Its effect on the character and appearance of the area, and
  - c) Its effect on the living conditions of the occupiers of the dwelling known as Silver Birches.

### **Reasons**

#### *Location*

4. The change of use relates to an area of garden that has been altered so that it serves as a parking area for the adjacent recycling centre. The recycling centre is a sizeable operation that occupies a large area to three sides of the curtilage of the dwelling. At the time of my visit the main parking area was busy and

there was a lot of activity across the site, generating significant noise. The wider recycling site is surrounded to the east, west and north by a dense and mature woodland, which separates it from Wokingham to the east.

5. The proposal has extended the area of land occupied by the recycling centre, within an area that is outside a development area. It is however a modest extension to a sizeable and well established existing business. The Council is particularly concerned about the unmanaged creep of the business into the surrounding woodland. However, the parking area occupies part of an existing garden that is surrounded by the existing business use on three sides and has not extended into the woodland.
6. Policy CP11 of the Core Strategy<sup>1</sup> (CS) seeks to restrict proposals outside development limits. It provides exceptions for the type of proposal that could be accepted in such a location. I accept that the existing recycling business cannot be considered a rural enterprise, and that there is no overriding need for it to be located here. It is a use that would be more suited to an industrial estate, however it is appropriate to give weight to the fact that the business exists already in this location, is well established, and provides an important local facility.
7. The proposal does not lead to excessive encroachment or expansion of development away from original buildings. The area is alongside existing buildings associated with the business, and when compared with the overall area occupied by the existing business the appeal site area cannot be considered excessive.
8. It is physically and visually contained between the dense and commercial appearance of the existing business that surrounds the appeal site area on three sides, and an existing domestic dwelling and retained curtilage to the south. Owing to a substantial line of dense evergreen trees along the southern boundary of the dwelling's retained garden the parking area is hidden from view from the road and path to the south.
9. The Council advises that the site does not benefit from a range of sustainable transport choices. Policy CP6 of the CS seeks to manage travel demand by providing for a choice of sustainable forms of transport. Whilst the proposal would not strictly accord with this objective, I do give weight to the nature of the use, which largely depends on customers using their own cars and larger vehicles. I also note that the site is very close to the edge of Wokingham and not far from numerous other conurbations. It is therefore likely that many of the journeys made to the site would be short. Furthermore, the parking area seeks to resolve an existing capacity deficiency for staff parking rather than increase the level of employment at the site. Thus, journeys associated with the wider site should not have increased following the formation of the parking area.
10. In summary, I am satisfied that the parking area is suitably located. It accords with the aims of Policies CP1 and CP11 of the CS, and Policies CC01 and CC02 of the Local Plan<sup>2</sup> (LP). Together these set out an overall approach to development in the Borough which establishes a presumption in favour of sustainable development by defining development limits which seek to protect

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<sup>1</sup> Wokingham Borough Local Development Framework Adopted Core Strategy Development Plan Document 2010

<sup>2</sup> Wokingham Borough Development Plan Adopted Managing Development Delivery Local Plan 2014

the separate identity of settlements and maintain the quality of the environment. The parking area does not accord with Policy CP6 of the CS as it is not located where there are choices of transport modes available. However, I am satisfied that the material considerations set out above carry significant weight and are sufficient to overcome this conflict.

*Character and appearance*

11. As I have already established, the parking area relates well to the existing heavily industrialised area of the business, which surrounds it on three sides. Mature trees surround the parking area along its eastern and northern sides. In addition, substantial trees form the southern boundary to the dwelling's curtilage. These trees, and the provision of an appropriate boundary between the parking area and retained garden are sufficient to ensure that it is hidden from view from the track to the south and from the various paths within the adjacent woodland to the east.
12. Unlike the existing business use which includes rows of stacked vehicles and various buildings, subject to an appropriately worded condition the parking area would only be used for the parking of smaller staff vehicles. At my visit I could see that the use of the area for such purposes does not cause any harm to the character or appearance of the area beyond that which is already caused by the existing business use.
13. The Council refers to the established grain of development in the context of the existing dwellings that front Highlands Avenue and their associated garden areas. These dwellings are not consistently arranged, and neither are their gardens. Many of these already have expansive areas of hardstanding that is much more visible from the road than the subject parking area. Furthermore, the wide entrance to the recycling business and the expansive hard surfaced area that includes the main car park is prominent to view from the road and has a highly urban and industrialised appearance.
14. In contrast the subject parking area is set behind the large garden area retained for Silver Birches. It has had no bearing on the character or appearance of the rough track to the south, which provides a pleasant walking route into the adjacent woodland.
15. The existing trees around the site contribute to the broader verdant character and appearance of the area. There is nothing before me to show measures that will be in place to ensure that these trees can be retained for the lifetime of the development. However, if the appeal is allowed and as part of the proper laying out of the parking area, I am satisfied that a condition would also be appropriate that would require information relating to the retained trees and measures that will be put in place to secure their future.
16. The Council is concerned about the precedent that the parking area might establish, and whether proposals may come forward for other dwellings to the west to lose their garden to the business use behind. Should any such proposal come forward it will need to be assessed on its own merits. Additionally, the layout of the other dwellings is different so it cannot be assumed that such development would automatically be considered favourably in the event that this appeal is allowed.

17. In summary, the change of use does not harm the character or appearance of the area. It accords with Policies CP1, CP3 of the CS and Policies TB06 and TB21 of the LP, which together seek to ensure that development maintains the quality of the environment, is appropriately scaled, and does not constitute the inappropriate development of residential gardens where it causes harm.

*Living conditions*

18. At my visit I was able to see that a large and pleasant area of private garden has been retained to the east of the dwelling, parallel with the road. Furthermore, access is retained around the perimeter of the dwelling to connect this to a small yard area at the northeast corner of the dwelling and a larger area of patio to the northwest. In combination, these areas provide good quality external space for the benefit of those occupying the dwelling.
19. The parking area is prominent to view from the rear of the dwelling, which includes large east facing openings that look out over the area from an elevated position. This is a less attractive outlook than that which the former large garden would have provided.
20. At the time of my visit the cars parked were arranged in an orderly fashion around the edge. Various images before me show that the area has previously been occupied by cars parked in a less orderly manner, with many blocked in. This is more akin to the appearance of other parts of the wider site where vehicles are stored, rather than a car park for roadworthy vehicles that are regularly used. A view out over parked vehicles arranged like this would be intrusive and would give the impression that the adjacent business use is overly dominant and crowding in around the environs of the dwelling. Instead, a view out over an ordered car park that is marked out so that cars are parked properly would be less visually intrusive.
21. Additionally, although not directly related to this main issue, marking out the spaces would give opportunity for emergency access to the area and disabled parking to be considered.
22. The appellant suggests that the parking area is for staff only. Indeed, the route through the site to access the area would make it difficult for visitors to use. Furthermore, using the area for visitor or customer parking has the potential to become busy during the day with lots of vehicle movements and those arriving taking time to orientate themselves with where they need to go. This would be different and potentially more harmful to those occupying the dwelling than restricting the use to staff parking only.
23. The use of the parking area for staff only could be secured by a condition, which I consider would be necessary if the appeal is allowed. I am satisfied that this would be enforceable as it would be quite easy to see where visitors or customers into the site are directed for parking; and in any case, as I have already established, the route to the area is difficult for anyone other than staff to use. A condition is also necessary to restrict the hours of use to ensure that activity in the area does not disturb those residing at the dwelling during the evenings or overnight.
24. At my visit to the site the boundary between the parking area and the retained area of garden was well defined by a timber fence and low crash barrier. This boundary is not part of the appeal proposal and is included within the Council's

recently issued enforcement notice. I should therefore give it little weight in my determination of the appeal. However, I do note that space is retained between the dwelling and the parking area that would allow a boundary to be formed to ensure that both uses are properly defined. In the event that the appeal is allowed I consider it necessary to impose a condition to require a formal boundary to be established to maintain the living conditions of the occupiers of the dwelling.

25. In terms of noise, at my visit I was aware that the wider site area creates a significant level of noise. In this context, the much more modest noises generated by a staff car park are incidental and do not meaningfully impact on the living conditions of those occupying the dwelling.
26. In summary, the parking area has not had a harmful impact on the living conditions of the occupiers of the dwelling. It therefore accords with Policy CP3 of the CS and NR10, NR11, NR20 and R15 of the Design Guide<sup>3</sup>, which together seek to ensure that development is well designed to create an appropriate environment for different uses and provide reasonable levels of privacy.

### **Other Matters**

27. The Council is of the view that the red line site area does not cover the whole of the parking area. The appellants appear to accept this; however, it is not possible for the application area to be amended through the appeal process. Therefore, if the appeal is allowed and on the basis of the Council's position, permission would be granted for a smaller area than that which has been subject to the change of use. I am not satisfied that the discrepancy identified is so significant that it should have a bearing on the outcome of this appeal.
28. The Council questions the need for the car park and suggests that the main car park to the west could be re-arranged to make sure that all the spaces are accessible. It is however clear from the evidence before me that this would not meet the need identified by the appellants.

### **Conditions**

29. I have had regard to the planning conditions suggested by the Council. I have considered them against the tests in the National Planning Policy Framework and the advice in the Planning Practice Guidance.
30. I have imposed a condition to ensure that the parking area is properly marked out to safeguard the living conditions of the occupiers of the dwelling and so that vehicles can be parked and manoeuvred in a way that allows the retained trees to survive.
31. I have imposed a condition to ensure that a boundary is provided to properly define the retained area of garden to safeguard the living conditions of the occupiers of the dwelling. The condition also requires the submission of details of retained trees, and measures that will be put in place to support their retention. This is necessary to maintain the verdant character and appearance of the area. This condition does not however require the appellant to plant further trees or shrubs as I am satisfied that the removal of the lawn, the laying of a hard surface, and the presence of parked cars in the area has not harmed the character or appearance of the area.

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<sup>3</sup> Wokingham Borough Council Borough Design Guide Supplementary Planning Document 2012

32. Conditions 1 and 2 set out a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of these matters before the development takes place. The conditions will ensure that the development can be enforced against if the requirements are not met.
33. I have imposed conditions to control how the parking area is used to safeguard the living conditions of the occupiers of the dwelling. I consider this to be necessary, as other uses associated with the business would have an unacceptable impact on the living conditions of the occupiers of the dwelling. I have amended the wording suggested by the Council to ensure that it is practical for the operation of the business.
34. I have imposed a condition to remove permitted development rights for external lighting. This is necessary to safeguard the living conditions of the occupiers of the dwelling and ensure that additional lighting is not erected in an unmanaged way that might harm the character and appearance of the wider area.

### **Conclusion**

35. For the reasons above, I conclude that the appeal should be allowed.

*A Tucker*

INSPECTOR

## **Schedule of Conditions**

- 1) Unless within 1 month of the date of this permission details of marked out vehicular parking spaces, turning spaces and access are submitted in writing to the local planning authority for approval, and unless the details are implemented in accordance with the timetable set out in the submitted details and approved by the local planning authority, the change of use of the land shall cease and all materials brought onto the land for the purposes of such shall be removed until such a time as a scheme is approved and implemented. Upon implementation of the approved details specified in this condition, those details shall thereafter be retained.  
In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 2) Unless within 1 month of the date of this permission details of a scheme to separate the development from the dwelling known as Silver Birches and details of any existing trees or shrubs to be retained and the measures to be put in place to support their retention are submitted in writing to the local planning authority for approval, and unless the details are implemented in accordance with the timetable set out in the submitted details and approved by the local planning authority, the change of use of the land shall cease and all materials brought onto the land for the purposes of such shall be removed until such a time as a scheme is approved and implemented. Upon implementation of the approved details specified in this condition, those details shall thereafter be retained.  
If within a period of 5 years from the date of this permission any retained trees or shrubs die, are removed, or become seriously damaged or diseased, they shall be replaced in the next planting season with others of similar size and species or as otherwise agreed in writing with the local planning authority.  
In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 3) The parking area hereby approved shall only be used by staff employed at the recycling centre and no vehicle over 3.5 tonnes shall be stationed, parked or stored in the parking area at any time.
- 4) The parking area hereby approved shall only be used between the hours of 07:30-18:00 Monday to Friday, and 08:00-16:00 on Saturdays and at no time on a Sunday or Public or Bank Holiday.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no external lighting shall be erected in the parking area or affixed to any adjacent buildings to serve the parking area without the prior approval of the local planning authority.

## **END OF SCHEDULE**

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