



Planning

Appeal Statement

Client:

Joe Kay

178 Bearwood Road

Barkham, RG41 1SH

Appeal of refused application 242719 seeking to vary conditions no.2 and 8 of 240665 to amend siting of approved dwelling and landscape enhancement

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01 Introduction

- 1.1 This statement is submitted following the decision of Wokingham Borough Council to refuse planning permission for the *'Application to vary conditions 2 and 8 of planning consent 240665 for the proposed erection of 1 no. four bedroom detached dwelling with associated landscaping following demolition of the existing dwelling and garage. Condition 2 refers to the approved details and condition 8 to landscaping, and the variation is to change the siting of the approved dwelling with accompanying landscape plan, plus a change to fenestration'*.
- 1.2 The application was registered on 04/11/2024 and considered under reference 242719. The application was refused under delegated powers on 20 December 2024. A copy of the officer's report and decision notice are included with the appeal documents.
- 1.3 Whilst the entirety of this statement will focus upon matters raised within the decision notice, officer report and landscape officer comments, it is to be stated here that the appellant's and LPAs case turns entirely as to whether the siting of the proposed dwelling 5m further north from that previously approved is considered to have such a detrimental impact (if any) to the wider landscape as to warrant a reason for refusal. Unequivocally, it is the appellant's case it does not.

- 1.4 A Landscape Statement has been commissioned and submitted as part of this appeal (prepared by Blade and authored by a qualified landscape architect). The conclusions drawn from the assessment of the appeal scheme with its landscape and ecological enhancements is that the LPAs reason for refusal is overly exaggerated and unable to be supported.
- 1.5 The LPAs Local Plan Update (LPU) has now been submitted for examination but has not had any hearings scheduled nor have any policies been tested as such there remains no valued landscape designations for the site. In any event the appellant has put forward a case that the impact to the landscape (whether valued or not) is not only maintained but also protected and enhanced by the improved landscape plan (removing rhododendron – explicitly identified as a pressure to the landscape).
- 1.6 As appendices to this statement appeal decisions have also been provided, these have been provided as they provide relevant extracts in relation to landscape policy within the LPA – these have been quoted when necessary and have only been provided to demonstrate the wider points made about the LPAs adopted policies in terms of landscape impact.

02 Site Location & Description

- 2.1 The site currently comprises an existing semi-detached dwelling and outbuilding/garage, permission was granted to demolish the dwelling and erect a new dwelling of a contemporary design within the site (this is the permission subject to the variation).
- 2.2 The area is characterised by extensive gardens, mature trees and woodland and there is a scattering of residential properties on the east of Bearwood Road, with the western side of the road comprising the grounds of Bearwood College and golf course, heavily screened from the road.
- 2.3 The site is not located within the Green Belt nor a National Landscape. The site does have two area Tree Preservation Orders covering the northern part of the site (87/1978 and 20/1973).
- 2.4 The application site is within the draft 'Barkham Bearwood Valued Landscape' designation as per the LPAs Valued Landscape Assessment (September 2024) and Draft Local Plan and the L1 'Bearwood and Gravel Hills' Landscape Character Assessment Area (November 2019).

03 The Appellant's Case

3.1 The Council's refusal reason reads as follows:

- 1 The replacement dwelling by virtue of its inappropriate siting and design including the orientation would constitute encroachment of development into the Countryside and Valued Landscape, and have a detrimental impact on the rural character of the area. The associated development, such as residential garden use, hardstanding and other domestic paraphernalia, would have an urbanising effect on the site, which would be considerably harmful to the woodland landscape setting. As such, the proposal is contrary to policies CP1, CP3 and CP11 of the Core Strategy (2010) and policies CC03 and TB21 of the Managing Development Delivery Local Plan (2014), the Borough Design Guide SPD (2012), the Wokingham Borough Landscape Character Assessment (2019), and section 15 of the NPPF (2024).

3.2 The appeal proposal is assessed below against the relevant policies identified by the Council in the refusal reason, and with reference to national guidance in the form of the National Planning Policy Framework (the Framework). However, there are a number of matters raised by the LPA which are required to be addressed for clarity, these comprise:

- The effect and a S73 application;
- The landscape policy context for considering the application in the context of the adopted plan;

- The landscape impact (arising from the development).

3.3 **Section 73 Application and Residential Use of Land:** the appeal concerns the refusal of a planning permission which was submitted under S73 of the Town and Country Planning Act.

3.4 Appendix 3 has been provided to show the previously approved plans for the site which clearly demonstrate the height and overall design of the dwelling remain the same, the only change is the siting of the dwelling.

3.5 It should be noted that whilst the effect of a S73 is to create a brand new permission it is only the question of the variation of conditions which is relevant. It is for the decision maker to consider whether the new permission created through the scope of the variation is acceptable and can apply new, amend, or omit conditions to facilitate this scope.

3.6 The above point is relevant as the LPA have questioned why the removal of condition no.13 has not been applied for. It should be noted that the LPA consider condition no.13 to restrict the residential element of the permission to an area. However, this is not what the condition does, it only sought to provide a fence around a certain area of the garden – the previous Officer Report (appendix 4) stated the following:

"The red line (Site Location Plan) ref: 640 00 Rev A, includes a second dwelling at the site (approved under the Certificate 061138) and over 50% of the land within the red line is a woodland, protected by Tree Protection Orders (20/1973) and (87/1978). It has been requested that the red line is amended to include the residential property and its residential curtilage/garden only, with all other land outlined in blue. The Agent has refused to amend the drawing. The Development Management Procedure Order (England) Order 2015 requires the red line plan to include "land to which the application relates". The plan does this and therefore is not technically invalid, but it also includes land which the application does not relate to. The red line submitted is not part of the residential development.

In addition to this, driveway works and gates/boundary treatments are shown on the site plan which are outside the residential curtilage of the dwelling and are not included in the description of development. No further details have been provided as to the nature of these gates/boundary treatments.

Further details on both the curtilage of the replacement dwelling and the boundary treatments will be required via condition".

- 3.7 Simply the red line was applied for as appropriate to the residential use of the site – it is not for the LPA to decide the intention of the appellant particularly when this was clarified in correspondence with the Case Officer. However, it should be noted the appellant did in fact amend the proposed

site plan to include areas of woodland outlined in blue (640 PL 07 Rev C) and this is an approved plan of the permission seeking to be varied – agreeing the residential use would not apply to these areas.

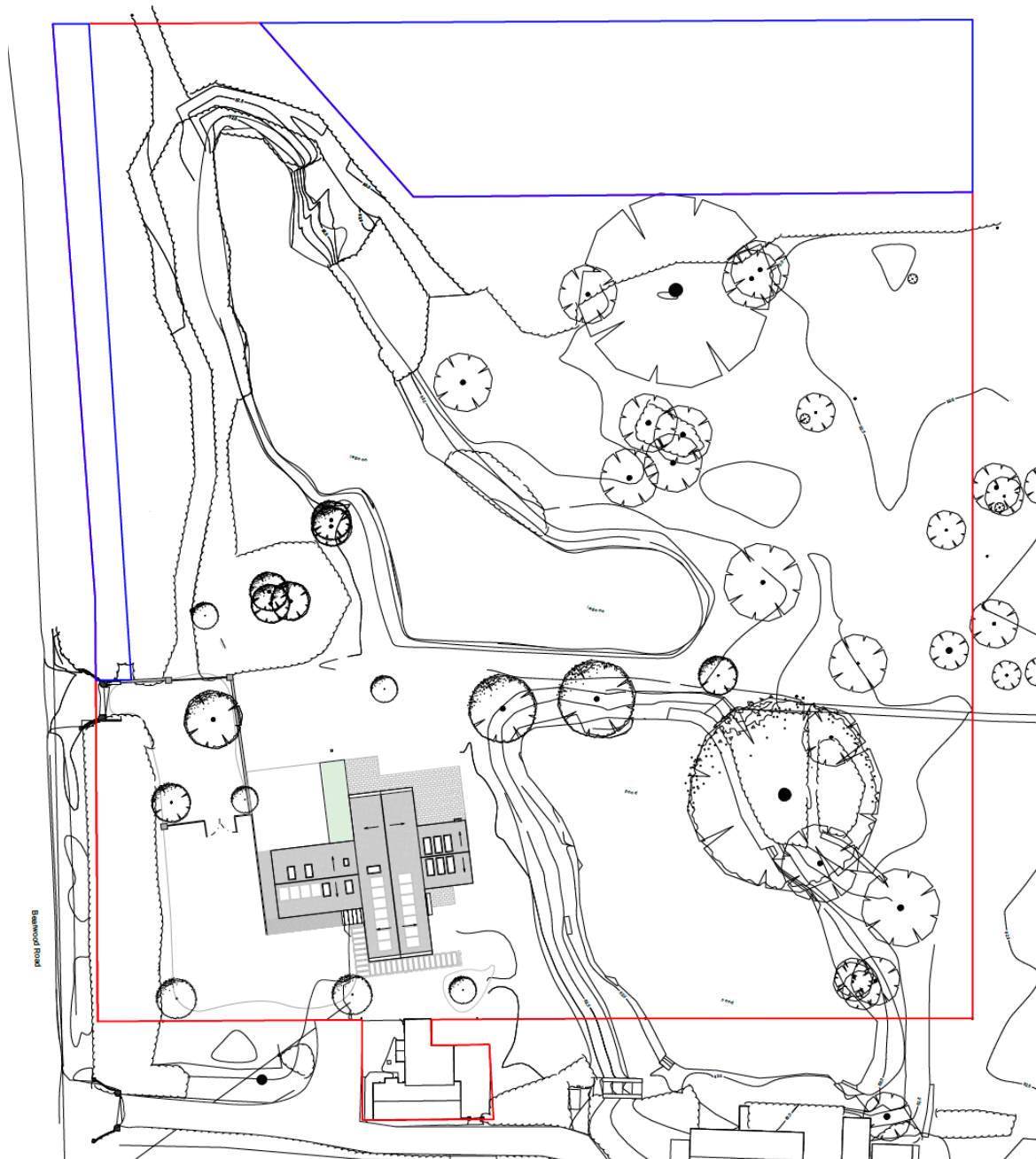


Figure 1. Approved Proposed Site Plan (Amended to Remove Area of Woodland to North of the Site – Blue Area)

3.8 Condition 13 was not considered to in anyway conflict with this approved plan, as the wording of the condition only required the “separation of garden land with surrounding woodland” - the fact woodland and TPOs are present does not mean the use class of the wider land is different and in fact the trees closest to the dwelling are group TPOs as opposed to woodland. There is woodland further to the north of the site and areas of woodland not included in the approved red line. The condition would retain separation from these areas. When read and considered in its ordinary meaning there is no reason to dispute this condition.

3.9 For context, the appellant considers the wider site outlined in red as proposed in the original application and variation proposal to be historically accurate for the residential use of the site (see Appendix 6 for information previously submitted for Certificates of Lawfulness for other dwellings on the wider site) – because historically the whole site has been used in a residential manner by the appellant and their family (over multiple generations).

3.10 It is crucial to not conflate the concepts of curtilage with residential land use as (with the former being unable to be controlled via the planning system as curtilage is not a use of land, and not limited to a single means of enclosure, but a legal term for the relationship of land with a building). The planning unit can be bigger than the curtilage of a building and vice

versa where residential paraphernalia which does not comprise development could be sited.

3.11 It is a contrary position for the LPA to hold that the approved red line does not have any meaning in relation to the development, particularly where conditions were applied to secure the landscape improvements to the wider site. Were the LPA considering the wider land to not be relevant to the determination, such a condition would fail the tests of: being necessary (as the dwelling would be acceptable in its own right); relevant to the development permitted; being precise; and being reasonable in all other aspects.

3.12 The LPAs emphasis on condition 13, makes the mistake (which is repeated through the LPAs comments) that woodland and the presence of a TPO is the use of land as opposed to a physical feature. The use of land as residential use exists and would not cease due to a fence being erected – the appellant has always used the plot outlined in red in the initial application as their garden.

3.13 Whilst a lesser point, it should be noted that whilst the conditions were agreed in the previous application, the LPA only required agreement from the applicant for pre-commencement conditions (which did not include condition 13) and it was not immediately obvious that the intention of

condition 13 was to restrict the residential use of the site in the way implied by the Officer Report.

3.14 In any event, the recent judgements of ***Test Valley Borough Council v Fiske [2024] EWCA 1541 (10 December 2024)*** and ***Armstrong v Secretary of State for Levelling-up, Housing and Communities & Anor [2023] EWHC 176 (Admin) (27 January 2023)*** confirm that S73 consents can make “fundamental alterations” to the original permission by imposing new and differing conditions to the permission (beyond those requested to be varied) provided it does not conflict with the operative parts of the permission. The development description remains unchanged, it is the plan list and accompanying supporting documents (tree and landscape information) which are being varied.

3.15 It is a matter for the Inspector to consider whether condition 13 needs to be replicated, however, in all cases the purpose and reason of condition 13 does not restrict residential paraphernalia to a certain area of the site – it merely seeks to differentiate residential use from an undefined area of woodland.

3.16 Unequivocally, it may be the case that the intention of the condition was to limit residential paraphernalia to a certain area, but this is not what it does.

- 3.17 The LPA has stated in the Officer Report for the S73 application (Appendix 1) that it is expected that a replacement dwelling would be in the same location as the dwelling it replaces and states the new siting would have a “clear negative impact on the countryside”. This is not a conclusion that can be drawn until an assessment of the landscape is undertaken, it is emphasised whilst the report states the location is not acceptable particularly due to its height and size – it is the same dwelling as previously approved (no changes in height, size or design).
- 3.18 It is emphasised that the assessment is assessing whether the siting of the dwelling in the landscape is acceptable, whilst it is a new assessment it is more than valid to consider the assessment to turn on whether a 5m change in siting from the approved development causes harm to warrant a reason for refusal, as 5m away the same dwelling is considered acceptable within the same landscape. There is an absence of any assessment of what the actual alleged harm is on this matter (and this is shown in the nature of the Landscape Officer comments in Appendix 2).
- 3.19 The remaining aspect of this appeal statement pertains to the impact to landscape policies as per the reason for refusal, however, the Inspector should bear in mind, the whole site does in fact comprise a residential use and crucially they are not limited to either add or omit conditions as they see fit as long as it does not conflict with the development description.

3.20 **Landscape Policy:** Prior to an assessment of landscape impact, it is crucial to clarify the relevant policy context to assess the development against, particularly in terms of whether the site is within a Valued Landscape and the **adopted** Local Plan policies and designations, which are the starting point for the assessment.

3.21 It is not contested that the site is within the countryside and therefore development is required to 'recognise' its intrinsic character and beauty as per paragraph 187.b of the Framework.

3.22 Appendix 7 is an allowed appeal decision within the LPA, which whilst the type of development is not directly applicable to this appeal, the framing of the 'recognition' of the countryside in paragraph 187.b (then paragraph 180) by Wokingham Borough Council is considered to be helpful for this assessment (Paragraph 118 – with ET Planning Emphasis):

*"Paragraph 180 of the Framework states that planning decisions should contribute to, and enhance, the natural and local environment by **recognising the intrinsic character and beauty of the countryside.** [the LPA] explained that in her view, **this means recognising the influence of the countryside on the local context and what it provides to the character of the area,** which is a helpful way to put it".*

3.23 The appellant considers the development recognises the influence of the countryside on the local context and its contribution to the character of the area as it does not undermine this character, particularly with its landscape and ecological improvements.

3.24 The LPA, however, has further considered the site to be within a 'Valued Landscape' as referenced in the Officer Report (Appendix 1). It is disputed that the site is in fact within a 'Valued Landscape'. The adopted Local Plan does not feature any Valued Landscape designations, however, the Local Plan Update does include a policy to designate areas as 'valued landscapes' (which the appellant's initial planning statement sought to address to pre-empt matters). There are two implications of significance in this regard to consider:

- i) Is the site part of a 'Valued Landscape' as described by Paragraph 180.b?;
- ii) Do adopted Local Plan Policies accord with the Framework?.

Is the site part of a 'Valued Landscape' as described Paragraph 180.b

3.25 Firstly, a Local Plan designation is not the same as a 'Valued Landscape' for the purposes of the Framework. Paragraph 188 of the Framework is clear that plans should distinguish between the hierarchy of international, national and locally designated sites.

3.26 The case of ***Forest of Dean District Council v Secretary of State for Communities And Local Government & Anor [2016] EWHC 2429 (Admin) (04 October 2016)*** is particularly relevant for summarising the case law on this point. Where in paragraph 14 of the judgement it states (with ET Planning emphasis):

*"... "Valued landscape" is not defined in the NPPF itself; but its scope and definition were considered recently in Stroud District Council v Secretary of State for Communities and Local Government [2015] EWHC 488 (Admin) ("Stroud"). Ouseley J held that **the NPPF is clear in distinguishing "valued landscape" from landscape which has a "designation"** (see [13]); and he considered that **"valued" meant something other than popular, such that landscape was only "valued" if it had physical attributes which took it out of the ordinary** (see [14] and [18]). That reasoning was followed by Patterson J in Cheshire East Borough Council v Secretary of State for Communities and Local Government [2016] EWHC 694 (Admin); and, before both the Inspector and me, it has been uncontentious. **It reflects, at least to an extent, the Landscape Institute's Guidelines for Landscape and Visual Impact Assessment ("the GLVIA"), which also makes clear that an absence of designation does not necessarily mean an absence of landscape value. The GLVIA identifies various factors that may be relevant in the assessment of landscape value, in something known as "Box 5.1"***

3.27 The appellant considers the site is not within a 'Valued Landscape' for the purposes of the Framework, and indeed this is the conclusion in the Landscape Statement which follows the GLVIA 3.

3.28 Explicitly the Landscape Statement references the Landscape Institutes Technical Notice 'Assessing landscape value outside national designations' and provides the definition of a 'valued landscape' as:

"A 'Valued Landscape' is an area identified as having sufficient landscape qualities to elevate it above more everyday landscapes".

3.29 Table JB 1 of the landscape statement provides an assessment of the site in this regard and ultimately concludes in paragraph 4.43:

"...that whilst the area surrounding the Appeal Site is set within is a Valued Landscape, that being the Barkham and Bearwood Valued Landscape, I am not persuaded that the Appeal Site would be judged to be a Valued Landscape individually".

3.30 In any event, it should be noted that Paragraph 180.a requires 'protection' and 'enhancement' to be *"in a manner commensurate with **their statutory status or identified quality in the development plan**"*. The fact remains that whilst the LPU is unadopted (and will likely remain unadopted by the time the appeal concludes) the valued landscape referenced by the

LPA has no statutory status – the only policy protection arises from paragraph 180.b and adopted local plan policies (not those emerging).

3.31 As such, whilst the LPA contend the site is within a Valued Landscape the appellant and Landscape Consultant both consider the site should not be assessed against the higher policy bar of 187.a of the Framework.

3.32 Instead, any assessment would fall under paragraph 187.b of the Framework where development proposals should 'recognise' the intrinsic character and beauty of the countryside.

Do Adopted Local Plan Policies accord with the Framework?

3.33 The second point raised on this matter is the alignment of Local Plan Policies and the Landscape Character Assessment referenced in the reason for refusal with the Framework.

3.34 The reason for refusal cites conflict with the Wokingham Landscape Character Assessment (2019), which forms part of the evidence base of the LPU but again not the adopted Local Plan.

3.35 The Core Strategy, was adopted in 2010 and formed countryside policy reflective of PPS7 and not the Framework (post 2012). Notwithstanding this, the evidence base of the Core Strategy only takes account of the Wokingham Landscape Character Assessment **(2004)**.

3.36 Policies CP1 and CP3 explicitly seek to “**maintain and enhance** the high quality of the environment” and for development to “have **no** detrimental impact upon important...landscape...”. The sub paragraphs for these policies then explicitly reference the Wokingham Landscape Character Assessment.

3.37 The MDD was adopted in 2014 and explicitly TB21 seeks for development to “**retain or enhance**” the condition, character and features that contribute to the landscape and explicitly references that Landscape Character Assessment in the policy. Policy CC03 of the MDD also states development proposals should “**protect and retain**” existing trees, hedges and other landscape features.

3.38 It is clear adopted policy sets a bar higher than that of paragraph 180.b for all landscape impact considerations and is more akin to 180.a (reflective of PPS7 protecting the countryside for its own sake). Relevant extracts from appeal decisions confirming this point have been provided below. The appeal proposal has therefore, been assessed against a higher bar than necessary by the LPA.

3.39 Appendix 8 comprises an allowed appeal decision where this point was raised about TB21 and the Inspector concluded the following in paragraphs 12 and 13:

"Policy TB21...states, amongst, other things, that proposals must demonstrate how they have addressed the requirements of the Council's Landscape Character Assessment. Its supporting text advises at paragraph 3.99 that proposals should take account of "the Council's current Landscape Character Assessment", which is dated 2004 in the TB21 Policy Background.

*The decision notice cites conflict with the subsequently published Wokingham Landscape Character Assessment (LCA) dated 2019. Paragraph 1.23 of the 2019 LCA advises that it forms part of the evidence base to inform the Wokingham Borough Local Plan Update. However, no such update is before me, and it therefore appears that **the 2019 LCA is not underpinned by current adopted policy. Its weight is therefore reduced to advisory guidance**".*

3.40 Appendix 9 also dealt with this issue but also the lack of alignment with the Framework explicitly regarding CP3 (paragraphs 151 and 152 – with ET Planning emphasis):

*"...while the general principles set out in Policy CP3 are largely in keeping with measures for achieving well-designed places, **this Policy also requires that proposals have no detrimental impact upon important landscapes. This criterion fails to align with Paragraph 180 b) of the Framework** which states decisions should contribute to and enhance*

the natural and local environment by, amongst of matters, recognising the intrinsic character and beauty of the countryside.

*Local Plan Policy TB21 requires proposals retain the condition, character and features that contribute to the landscape. **In this respect the Policy is more strident than provisions of the Framework that state decisions should ensure that developments, amongst other matters, are sympathetic to local character including the landscape setting.** This Policy is not wholly consistent with provisions of the Framework in this respect. **Accordingly, the weight these identified harms to the local landscape and the conflict with these current local Policies attracts, whilst significant, is reduced due to this inconsistency**".*

3.41 Whilst it remains the appellant's case that the development does in fact maintain and enhance the landscape, it should be noted that the LPAs comments should be considered in the above context where the 2019 character assessment and emerging valued landscape designations are not adopted policy.

3.42 The remaining aspects of this statement seek to demonstrate that the landscape impact of the appeal development accords with the adopted Development Plan however, should the Inspector disagree the above only demonstrates these policies are out-of-date.

3.43 **Landscape Impact:** In relation to the landscape impact described by the planning officer (accounting for landscape officer comments), the Officer Report states that the proposed siting of the dwelling causes unnecessary encroachment into an open woodland area and fails to maintain the woodland character and appearance. It should be noted there is no objection in relation to the proposed tree works (covered by the TPO) by the landscape officer.

3.44 As has been previously stated the wider site forms part of the residential use associated with the dwelling of no.178 Bearwood Road (historically and currently). The site is also self-contained with multiple dwellings to the south and east, with no public vantages or PRow intersecting the wider woodlands to the north (not part of the appeal site). There is an existing asphalt vehicle path which provides access to a substation to the north of the site.

3.45 As such, the influence of the appeal site on the local context (and the character of the area) is not one that chimes with the LPAs assessment that the dwelling would be essentially encroaching into an open area devoid of residential development. Indeed, the landscape statement, whilst acknowledging the issues with the policy context raised by the LPA (previously listed above) notes the description of the landscape in the WLCA (2019) and that its qualities and values are found within the context of the appeal site but do not apply to the appeal site itself.

3.46 Finding in paragraph 4.10 that the site itself is “*extensively tree’d, rather than being a woodland feature itself, the site is visually and physically contained by tree components within its quantum, as well as along the Bearwood Road which form part of the curtilage to the road along the site’s western edge*”.

3.47 The statement goes onto conclude in paragraph 4.11: “*In the contemporary landscape, the Appeal site and the wider wooded landscape and occasional open field of the L1: Bearwood Wooded Sand and Gravel Hills Landscape Character Area **are separate, owned and managed by entities with different characters through their land use** i.e open countryside verse the private garden of a large individual, detached dwelling*”.

3.48 Whilst the LPA contests the residential use of land the noted difference in physical characteristics from the wider landscape are present as a matter of fact.

3.49 The landscape statement acknowledges that in order to retain the wooded character of the landscape the retention of trees would be key to achieving this.

3.50 The enhancement of the landscape via the approval of this application therefore cannot be understated, the proposal includes a landscape plan

which seeks to remove rhododendron which is currently unmanaged and extensive throughout the trees (including within the TPO on site).

3.51 The approval of this application would coincide with a condition for the landscape plan to be implemented and maintained securing the removal of an identified landscape pressure.

3.52 **It is emphasised that this is not secured without the approval of this appeal permission as there are no existing planning controls (or requirement by other regimes) to remove and manage the rhododendron.** The LPA simply cannot consider the trees to be important landscape features but simultaneously disregard measures to ensure their longevity.

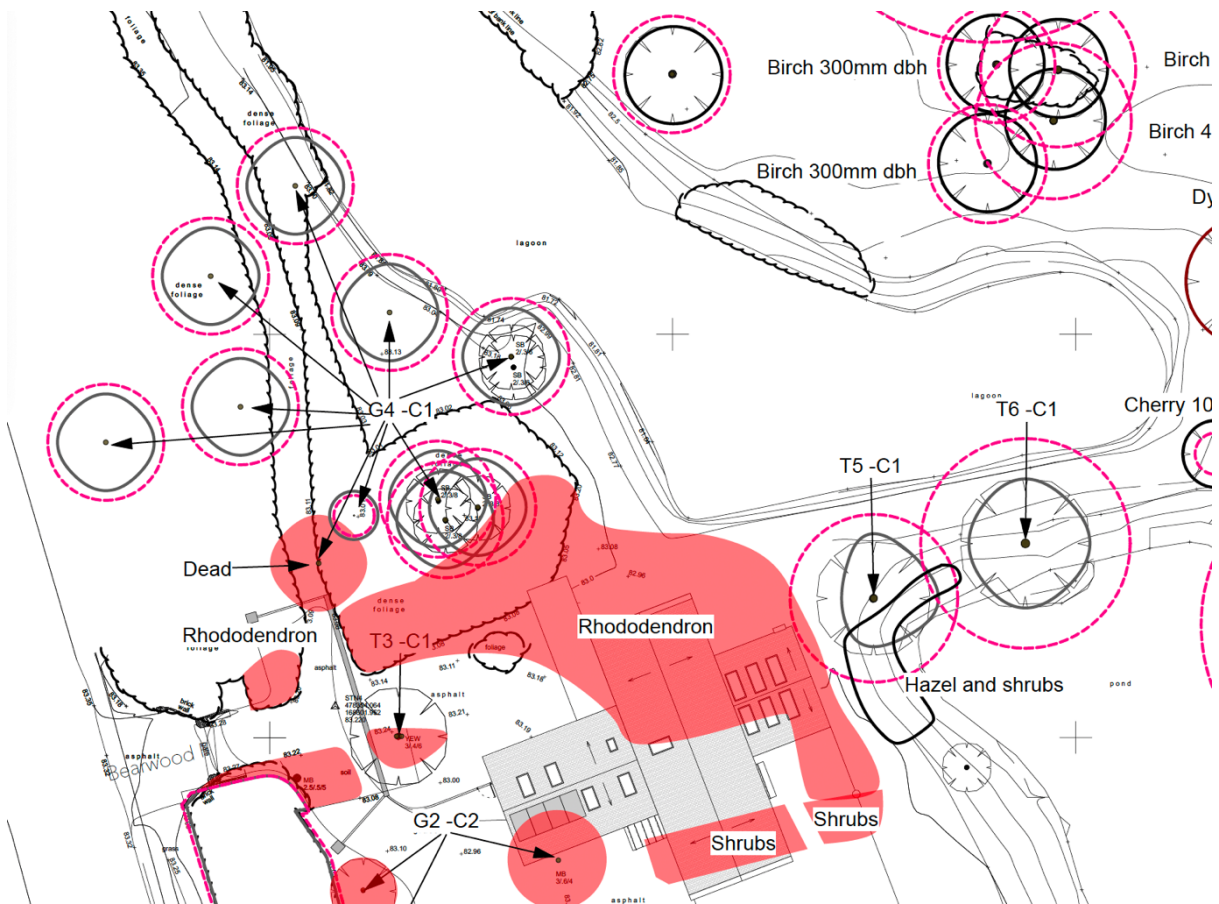
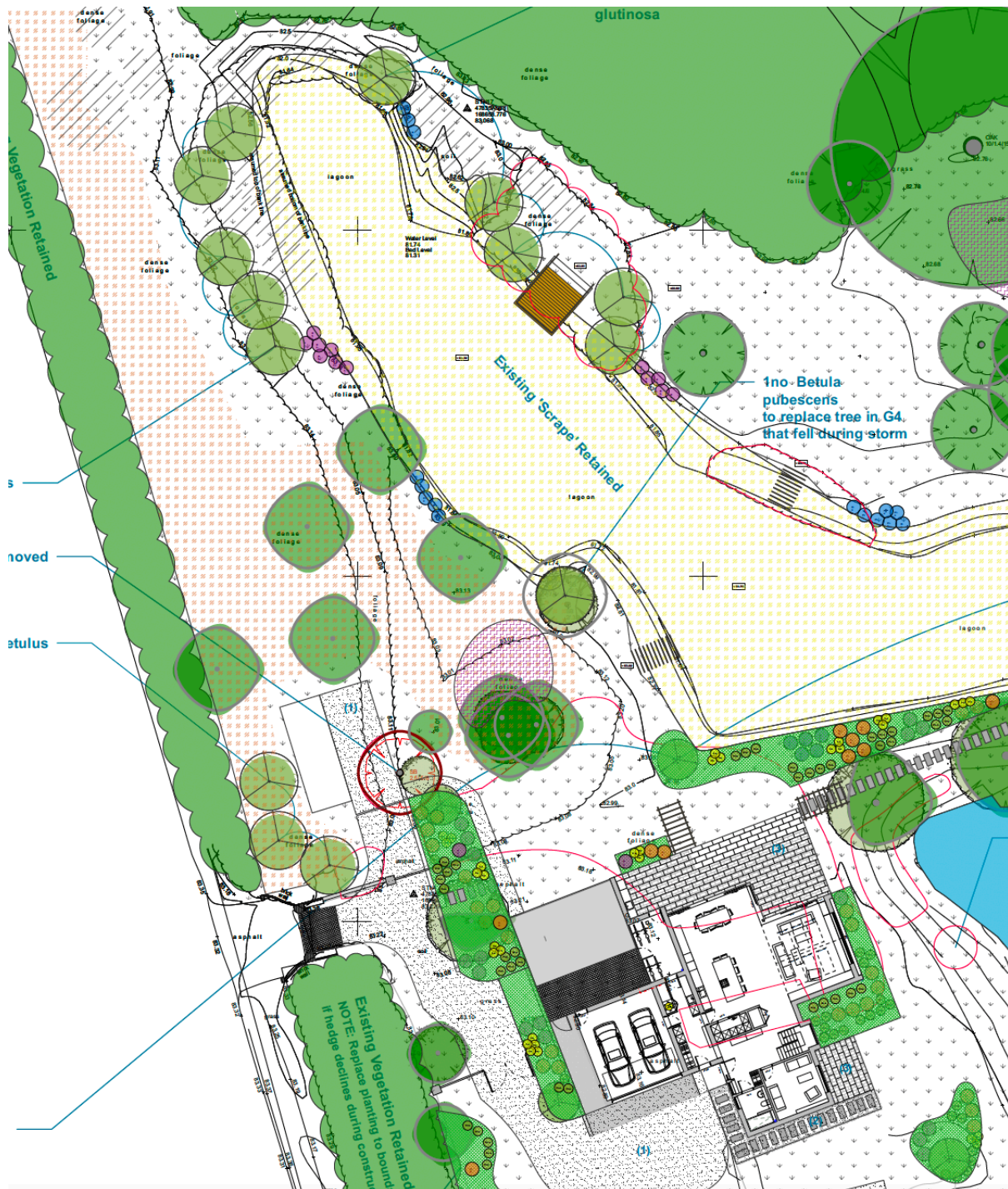


Figure 2. Extract of Tree Retention and Loss Plan

3.53 Figure 2. demonstrates that despite the change in siting of the dwelling only 1 tree is to be removed from the northern cluster of trees (in the TPO) and this is due to the fact it is dead. The LPAs objection on harm to the woodland character appears to relate to the removal of the non-native and invasive Rhododendron. Again this is identified as a pressure to this landscape in the LPAs evidence base, and specifically a pressure to the trees of value (protected by the TPO). It is not considered the rhododendron should be considered to contribute to the wider woodland character further north of the site.

3.54 In any case, the removal of the rhododendron is more than offset by the provision of additional trees to the site and expanses of native feature shrubs (as shown in figure 3) not only around the dwelling but across the site serving to enhance the 'woodland' and verdant character of the site.

3.55 The landscape statement also aligns with this conclusion in paragraph 4.24:
*"Whilst the concerns of the LPA are appreciated (i.e vicinity to the tree'd edge of the site), this location does strike a better balance between arranging built form relative to the road corridor of Bearwood Road, **as well as enhancing the wider openness of the site, and the countryside situated outside of the site. We are reminded by GLVIA version 3, that the benefits to the other dimensions of the landscape resource, are to be considered. This has a beneficial effect which the LPA appear to have not considered**".*



**Figure 3. Extract of Proposed Landscape Plan Detailing
Additional and Retained Trees as Well As Additional Native
Shrubs Immediately Around the Dwelling**

3.56 The Officer Report states that the scheme would lead to the degradation of a vegetated area and the landscape plan cannot be “ensured in perpetuity”. The landscape plan and a standard replacement planting condition have been entirely disregarded by the LPA, were this reasoning to be legitimate then no development would ever be able to come forward in the countryside (or a valued landscape) anywhere – as the introduction of any built form where there is none will always have an impact and ‘mitigation planting’ would never be able to be realised. This is a common practice in the planning system.

3.57 The report also states the siting would spread development and detrimentally impact the countryside and “clustered pattern of development along Bearwood Road”. It should be noted that the Officer Report also describes Bearwood Road as being characterised by large dwellings sited on extensive plots and notable variation between the dwelling types and design, and as such the relationship of a ‘cluster’ has been overstated.

3.58 It is clear that the development would be retained on an extensive plot and a 5m change in siting would in no way undermine the clustered pattern the LPA is seeking to retain.

3.59 Finally, it is clear the LPA are simply weighing harm against the development on the basis it is introducing built form to an area where there

is none and that this in itself is harmful to the landscape, explicitly Appendix 1 states: *"The Trees & Landscape Officer has assessed the scheme and concluded that because the proposal extends the built form across a wider area of countryside, valued landscape, the local and natural environment, it is clear the development does not conserve the unsettled character of the area"*.

3.60 The LPA is clearly assuming that no built form can be introduced when this is not what either countryside nor valued landscape policies restrict (only Green Belt policy seeks to restrict 'encroachment' into the countryside).

3.61 The landscaping and tree plans clearly demonstrate the relevant features of the landscape have been maintained and there are no views of the dwelling in the new location to indicate it would be in a more prominent siting or be exposed to new view points which would undermine the unsettled character of the wider landscape.

3.62 The landscape statement on this matter (when comparing the approved scheme) highlights: *"...there is no hinterland or threshold within the site that could be identified as 'heightening' one's experience of the proposed elements – such an example would be a noticeable change of level, higher ground or water body...the experience of the same hardstanding, patio, pathway and associated domestic elements as previously proposed (LPA Ref: 240665), would not be detrimentally effected by the proposal"*.

3.63 It should be noted that Appendix 1 contains multiple references to the scheme intensifying activity across the site (changing the 'unsettled' character), whilst the point is not agreed between the appellant and the LPA, the LPA cannot raise concerns regarding condition 13 not being applied to be removed and it allegedly restricting residential use and then refuse a development, on its assessment, that it undermines the 'unsettled' character of the landscape simultaneously.

3.64 As such, it is considered that the appeal development having no greater visual impact and enhancing the positive features of the wider site via the landscaping and tree improvements, in no way undermines, and in fact enhances, the relevant landscape features of the site.

3.65 It should be noted that were the wider site a valued landscape as identified by the Draft Local Plan, that the benefit of the removal of rhododendron alone actually secures an enhancement of the landscape characteristics.

3.66 The rhododendron is an invasive species that the draft valued landscape document identifies as a genuine pressure to the woodland in the wider landscape (one of its main features), the LPA cannot reasonably hold the position that its removal is harmful to the landscape when it is an identified negative feature of said landscape.

3.67 As such, it is considered an appropriate enhancement and ergo protection of the countryside has been delivered by the development and the appeal should be allowed on this basis. It is considered the development complies with CP1 and CP3 of the CS and 187 of the Framework.

3.68 Should the Inspector conclude that the scheme conflicts with TB21 or CC03 (as they are not sufficiently flexible), then paragraph 187 of the Framework and its paragraphs in relation to being 'sympathetic' to the wider character would be material considerations sufficient to grant the development. Likewise, the benefits

04 Conclusion

4.1 For reasons set out in this statement it is considered that the appeal proposal adheres to relevant development plan policies, and gains further support from national guidance in the form of the Framework.

4.2 There is no genuine justification in relation to landscape harm that can be substantiated by the LPA. The appellant, throughout the initial submission and this appeal statement, is the only party that has provided a detailed assessment of the landscape impacts in accordance with GLVIA methodologies.

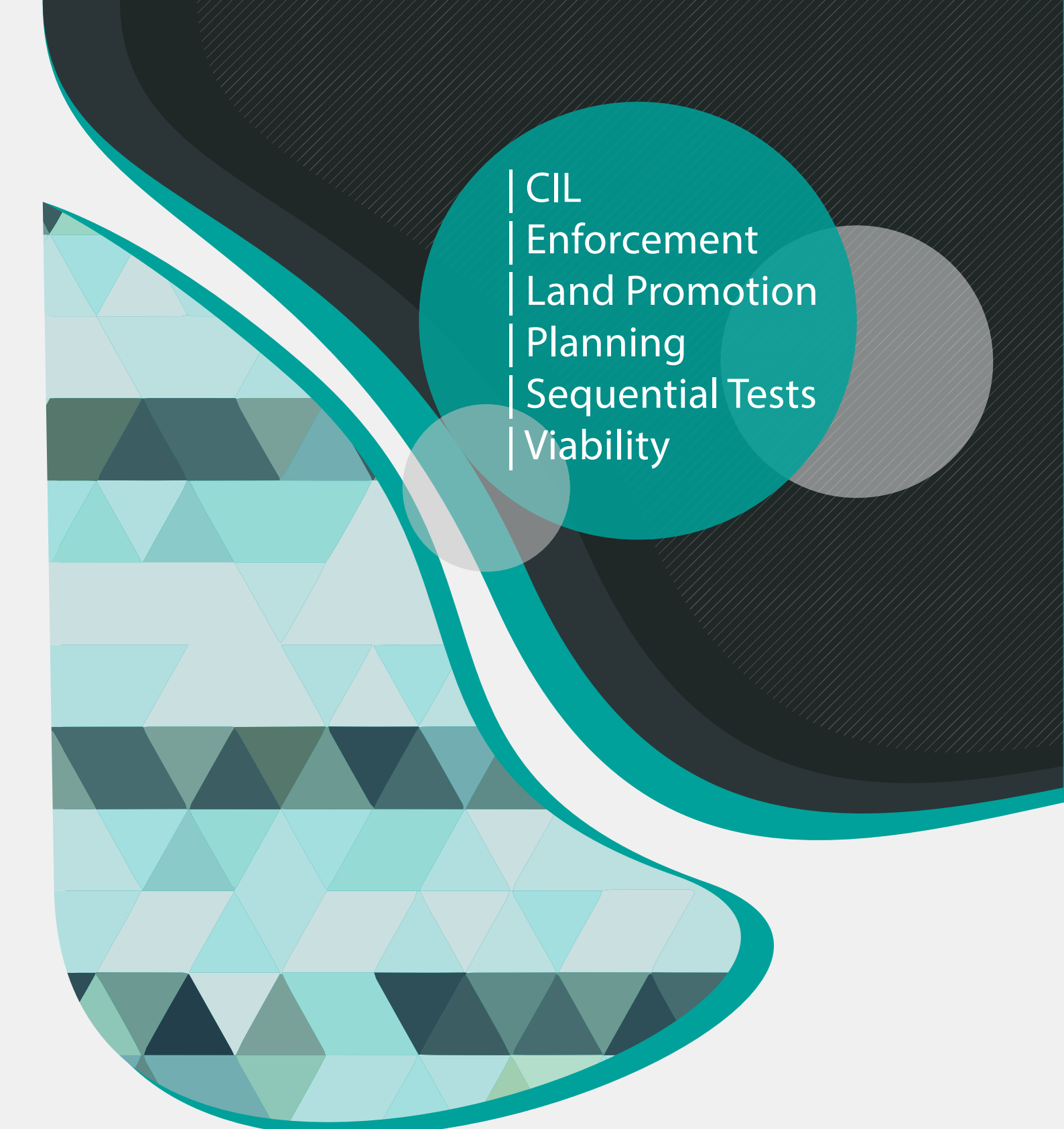
- 4.3 Granting the application and benefits in terms of environmental improvements particularly in the form of the removal of rhododendron are also material considerations that support the grant of planning permission.
- 4.4 Therefore, the Council's reason for refusing the proposed development is unjustified, and it is respectfully requested that the appeal be allowed.

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