

Planning Appeal Statement of Case

November 2024

HIGHLANDS AVENUE, WOKINGHAM RG41 4SP

MICROSOFT OFFICE USER



Introduction

1. This appeal relates to the decision of Wokingham Borough Council to refuse planning permission for the erection of nine streetlights. The application was refused on 25th October 2024 under Officer's delegated powers.

The Site

2. The appeal site is a rectangular strip of land that measures approximately 20 sqm in area and forms the edge of a woodland area that extends northwards from Highlands Avenue. Highlands Avenue is a private cul-de-sac that provides access to a number of detached dwellings and the A1 Recycling Centre, which is accessed at the eastern end of Highlands Avenue and extends to the rear of the properties to the north of Highlands Avenue. Highlands Avenue is also a public right of way (PRoW) that traverses along Bearwood Road in a southerly direction and into the woodland to the east.
3. The appeal site lies beyond any defined settlement boundary so that it is defined as open countryside. Whilst the site has no specific landscape designations, there are two Tree Preservation Orders (TPO) covering the site. Firstly, woodland TPO ref TPO-0020-1973 confirmed in 1973 covers the entire site with a description of mixed hardwoods consisting of mainly birch, chestnut and oak. Secondly, woodland TPO ref TPO-0199-1981-W2 confirmed in 1982 covers the western section of the site with a description of sycamore, alder, sweet chestnut, ash, birch, oak, rowan, horse chestnut, scots pine, norway spruce, hazel. The appeal site covers a very small part of the southern end of each TPO, both of which include the extensive area of woodland that extends between Bearwood Road and the built-up area of Wokingham to the east.

The Proposed Development

4. The appeal scheme is for the installation of nine streetlights. This is a retrospective development with the streetlights having been installed.

Decision Notice

5. The Council refused the planning application for a single reason that the development is inappropriate development in the countryside that has adversely impacted the character of the landscape setting by virtue of its inappropriate siting within a TPO woodland, valued landscape and countryside location and that the development has resulted in an adverse impact on TPO woodland through the removal of seedlings and vegetation, and will continue to harm the woodland by restricting the natural spread of trees self-seeding and regenerating in the area of the woodland TPO.
6. The Council has referred to both the National Planning Policy Framework (NPPF) and local planning policies in this reason for refusal that it considers the unauthorised development does not comply with:
 - NPPF chapters 180 (a) and (b)
 - Policy CC03 and TB21 of the Managing Development Delivery Local Plan adopted 2014 (MDD)
 - Policies CP1, CP3 and CP11 of the Core Strategy adopted January 2010 (CS)

The section below looks at these policies in more detail.

7. The NPPF Para 180 sets out that planning decisions should contribute to and enhance the natural and local environment with sub para (a) stating that development should protect and enhance valued landscapes, sites of biodiversity and soils with sub para (b) stating that development should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services including trees and woodland.
8. Policy CC03 considers the impact of development on green infrastructure, trees and landscaping. It sets out criteria that development proposals should achieve, including promoting accessibility, linkages and permeability between and within existing green corridors including public rights of way, and protecting and retaining existing trees, hedges and other landscape features.

9. Policy TB21 considers landscape character and states that proposals shall retain or enhance the condition, character and features that contribute to the landscape.
10. Policy CP1 refers to sustainable development. Whilst the policy refers to a list of twelve criteria that development proposals should address, the one criterion considered specifically relevant to this refusal reason is criteria 1; that development should maintain or enhance the high quality of the environment.
11. Policy CP3 refers to general principles for development and requires development proposals to be of an appropriate scale, mass, layout, built form, height, materials and character to the area with a high quality of design.
12. Policy CP11 seeks to restrict proposals outside development limits and states that development will be permitted only where it contributes and/or promotes recreation in, and enjoyment of, the countryside and does not lead to excessive encroachment or expansion of development away from existing buildings.
13. It should also be noted that the site falls within area L1 (Bearwood Wooded Sand and Gravel Hills) of the Wokingham Borough Landscape Character Assessment Area (LCA) November 2019.

Planning History

14. Planning permission for the erection of a footpath and nine streetlights (also retrospective) was refused in June 2024 (Wokingham BC application reference 240343). This application is the subject of a planning appeal (PINS ref APP/X0360/W/24/3347228) with the Inspector due to visit the site on 13th November 2024.

Discussion

15. There are two aspects to the reason for refusal. Firstly, that the development is inappropriate development in the countryside that has adversely impacted the character of the landscape setting by virtue of its inappropriate siting within a TPO

woodland, valued landscape and countryside location and, secondly, that the development has resulted in an adverse impact on TPO woodland through the removal of seedlings and vegetation, and will continue to harm the woodland by restricting the natural spread of trees self-seeding and regenerating in the area of the woodland TPO. Each of these aspects are considered below.

16. With regards to the first aspect regarding inappropriate development in the countryside, the refusal reason states that the development has adversely impacted upon the character of the landscape by virtue of its inappropriate siting within a TPO woodland, valued landscape and countryside location. However, there is no indication as to why the streetlights are inappropriately sited and therefore what harm is generated by the appeal proposal. The Delegated Officer Report (Appendix 1) provides some clarity on this. It states on page 4 that the lights are set back from the road where pedestrians would walk, away from any nearby built form, so that they are isolated and that results in excessive encroachment into the countryside.
17. In terms of the positioning of the streetlights, there is no footpath on Highlands Avenue and the streetlights are necessarily set back from the road, albeit very marginally, so that they provide light along Highland Avenue . The low-density built-up form of detached dwellings and the A1 Recycling Centre along Highlands Avenue, which although outside a development area, generates an immediate semi-urban context and it is considered that the siting of the streetlights does not lead to excessive encroachment or expansion of development away from the built form. Their physical presence does not generate an urbanising feature as Highlands Avenue already has a built-up character , also marked by domestic fences and brick walls aligning the road. The streetlights are therefore not considered to alter or detract from the character or quality of the environment around Highlands Avenue so that there is no conflict with policies CP1, CP3 or CP11.
18. The lights were installed to provide improved highway safety along Highlands Avenue. As a public right of way, Highlands Avenue is used extensively by pedestrians, in particular dog walkers using Highlands Avenue as a PROW, accessing Fox Hill woodland

to the east via the approach from Bearwood Road, with most use occurring early morning and late afternoon/early evening. Highlands Avenue is also used frequently by the appellants, who live in Highlands House on Highlands Avenue, and their extended family, including young grandchildren, who live in Fernview Cottage, which is the adjacent property to Highlands House, and at Beechwood House at the southern corner of Highlands Avenue and Bearwood Road so that Highlands Avenue provides the formal means of pedestrian access between these properties for the extended family.

19. Highlands Avenue is subject to a large amount of commercial traffic movements to and from the recycling centre. This creates conflict between pedestrian and vehicular movements and highway safety, in particular pedestrian safety, is of great concern to the appellants. Introduction of the street lights will facilitate the safer movement of highway and pedestrian traffic along this road, which is likely to promote recreation in, and enjoyment of, the countryside thereby satisfying policies CC03 and CP11.
20. Page 6 of the Officer's report states that there is wider development associated with the proposal concerning the clearance of the TPO woodland to facilitate the proposed development that has altered the character of the landscape setting. With regards to the clearance of the TPO woodland, a letter dated 12th December 2023 (Appendix 2) was received from Mr Mark O'Leary, Planning Enforcement Specialist at the Council. This letter related to investigation works being carried out by Mr O'Leary in this wider area in response to reports of a possible breach of planning control. The letter states the following under the heading 'Clearance of woodland and use of land':

"The woodland is protected by Tree Preservation Orders No 20/1973 and No199/1981. Works to trees and around them, within the woodland, would require permission.

However, you say that this area of woodland was subject to fly tipping and has been removed. You have removed ground vegetation. This would be permitted as would be management of the woodland.

I am satisfied that no trees have been removed and fly tipping and ground vegetation have been removed. Furthermore, the use of the land has not changed and remains as woodland and part of the overall protected woodland around A1 scrap yard".

This clarifies that there has been no breach of planning control through the removal of ground vegetation whilst all existing trees have been retained through the installation of the streetlights.

21. The site is located within the Wokingham Borough Landscape Character Assessment Area L1 'Bearwood Wooded Sand and Gravel Hills'. The Key Issues for Character Area L1 are defined on p286 of the Landscape Character Assessment Part 2 Areas L to M (Appendix 3) with the first stated issue being:

"Changes in deciduous woodland structure through loss of species diversity and the spread of sycamore, rhododendron and other invasive/exotic species are threatening the locally distinctive species composition of these woodlands."

The woodland clearance referred to above, in particular the stretch of land adjacent to Highlands Avenue where the streetlights are positioned, has essentially concerned the removal of rhododendron, which accords with this key issue.

Page 5 of the Delegated Officer Report refers to Bearwood Road being a Green Route Enhancement Area as defined in Policy CC03 and that the development starts in very close proximity to the junction of Highland Avenue and Bearwood Road so that the change to the wooded character as a result of the development is highly visible. The rhododendron dominated the aspect along Highlands Avenue, and it is considered that clearance of the rhododendron has improved the prominence of the existing oak trees, thereby enhancing both the character and composition of the woodland. This is in accordance with Policy TB21 and NPPF Para 180.

Page 6 of the Officer's report raises a concern that the light spill from the streetlights conflicts with a valuable attribute of the landscape character area, namely 'peaceful secluded character with naturalistic qualities and experience of dark skies'. Whilst it is not considered that Highlands Avenue particularly conforms with this peaceful secluded character, the streetlights operate at 470 lumens, which is a relatively low level of lighting, in particular given that streetlights typically range from 600 to 1200 lumens. A low level lighting solution was sought by the applicant to provide sufficient lighting of Highlands Avenue without having adverse consequences on the natural environment. It is noted that there is no objection to the application on grounds of impact on fauna.

22. An Arboricultural Impact Assessment (AIA) (Appendix 4) was submitted with the planning application. The AIA notes that small localised excavations were hand dug to form pads for the street lights to avoid any harm to significant roots although the report does also note that it was not possible to assess whether all excavations within an RPA were lined with impermeable polythene sheeting before filling with concrete in order to avoid root damage by leachate and which tree protection measures were implemented during the excavation and installation of the underground cabling and concrete pads for the streetlights.
23. The AIA concludes that there has been some minor non-compliance with tree protection guidelines so that it will be necessary to improve the soil structure and increase the organic content to ensure that the soil is more capable of holding nutrients and moisture in order to increase tree vigour and ensure long term retention of the retained trees. A five year remedial mitigation programme is included within the AIA in order to ensure that there will be no long term impacts on tree vigour or retention arising from the development. This would address the second part of the reason for refusal whilst also meeting policy TB21 and NPPF Para 180. The mitigation programme could be included as a condition of the planning permission should the appeal be allowed.

24. Finally, the question should be asked as to why the appellant has submitted a further planning application for the streetlights when a planning application for the streetlights and a footpath in close proximity to the lights has been refused and is at appeal. The answer is that whilst the appellant does not consider either the street lights or the footpath to be inappropriate development, the appellants are genuinely concerned about the need to provide some form of illumination along Highlands Avenue in the interest of both pedestrian and traffic safety and so want to circumvent the possible situation whereby the streetlights are considered to be acceptable but the footpath is not.

Conclusion

25. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that planning applications should be determined in accordance with the development plan unless other material considerations indicate otherwise.

26. The installation of the streetlights has not resulted in the loss of any existing trees. There has, however, been clearance of rhododendron, which will facilitate the natural spread of the existing deciduous woodland in the future whilst the installation of the streetlights is not considered to alter the character of the environment around Highlands Avenue.

27. Whilst there has been some minor non-compliance with tree protection guidelines with the installation of the footpath and streetlights, a five year remedial mitigation programme is proposed to ensure that there will be no long term impacts on tree vigour or retention arising from the development.

28. Accordingly, the installation of the streetlights has not caused material harm to the landscape setting of the area with no long term harm to the woodland. The proposed development is therefore considered to be in accordance with the development plan.

29. For these reasons, it is respectfully requested that the appeal be allowed.