

**PLANNING DEVELOPMENT CONTROL COMMITTEE MEETING
MARCH 2016**

OBJECTION TO TREE PRESERVATION ORDER TPO/0038/15

LAND OF ANDERWOOD DRIVE, SWAY

REPORT OF THE NATIONAL PARK AUTHORITY TREE OFFICER

1. TREE PRESERVATION ORDER HISTORY

- 1.1 Tree Preservation Order TPO/0038/15 was made on 23rd November 2015. The Order protects three individual Oak trees and a group of ten Oak trees situated in the front and rear gardens of properties of Anderwood Drive, Sway.
- 1.2 The Order was made following requests from two individuals to consider protecting the trees following the felling of Oak trees in a property on Middle Road and concerns regarding the proposed felling of further Oak trees in a property on Anderwood Drive.
- 1.3 The Authority's Tree Officer visited the site on 6th November 2015. She formed the opinion that the trees make a positive contribution to the visual amenity of this area of Sway.
- 1.4 Mr Robertson-Gopffarth, the owner of 15 Anderwood Drive a property affected by the TPO, submitted an objection to the TPO dated 26th November 2015 and 15th December 2015. Mr and Mrs Hetherington-Ford the owners of 17 Anderwood Drive a further property affected by the TPO, submitted an objection to the TPO dated 15th December 2015.
- 1.5 On 23rd December 2015, the Authority's Tree Officer met Mr and Mrs Robertson-Gopffarth, to discuss their concerns. Mr and Mrs Hetherington-Ford had been offered a meeting on the same day but were not in attendance nor did they provide a suitable alternative date for a site meeting. Mr and Mrs Robertson-Gopffarth did not agree that the Oak tree comprising of three stems in their rear garden provided a public amenity.

2. THE TREES

- 2.1 All except one of the Oak trees are situated on the rear, northern boundary of properties on Anderwood Drive. An individual is situated in the front garden of 3 Anderwood Drive. The trees heights and stem diameters vary but all are considered as mature.
- 2.2 The physiological condition of the trees is good.
- 2.3 The trees are clearly visible from Anderwood Drive and Middle Road where they form an attractive verdant backdrop to the houses.

3. OBJECTIONS TO THE ORDER

3.1 Mr Robertson-Gopffarth wrote objecting to the Order on 26th November and 15th December 2015.

3.2 Mr and Mrs Robertson-Gopffarth grounds for objection were as follows:

- The tree poses a hazard to his home.
- His children will not be able to climb the tree or retain their tree swing.
- The protected trees are on private property and are not fully visible from a public vantage point.
- The removal of trees from his garden would not have a significant impact on the local environment or public amenity.
- Oak trees are not rare and do not have cultural or historic value.
- The trees are not special in terms of the area's character.
- The trees are not important to the New Forest National Park as they are in a built-up area within a semi-rural environment.
- The TPO creates a burdensome level of bureaucracy.
- The trees are in a position where water can accumulate. The retention of water may affect the trees' stability.
- He considers that his human rights should have been considered.

3.3 Mr and Mrs Hetherington-Ford wrote objecting to the Order on 10th December 2015.

3.4 Mr and Mrs Hetherington-Ford grounds for objection were as follows:

- The Oak tree situated in the rear north-west corner of their property leans and as it grows may in time be of a size that should it fail it would damage their neighbour's home.
- An Oak tree situated centrally on the rear boundary has low hanging branches affecting the rear garden.
- Oak trees have shallow root systems and this together with damp soil conditions may result in the tree failing.
- The property is on clay soil, the trees roots may in time cause damage to the foundations of adjacent structures.
- The trees are on private land and are therefore not a public amenity.
- Undertaking tree work is complicated by the imposition of a TPO.
- They feel victimised as new build properties have not had a requirement to plant new trees in order to maintain the village's character.
- Other tree owners have undertaken management of their trees and it is unfair that this work was done without the requirement of obtaining consent via a tree work application.

4. COMMENTS ON THE GROUNDS FOR OBJECTION

4.1 The mature tree comprising of three stems in the rear, north-western corner of his property at the time of inspection on the 23rd December 2015 was in good structural and physiological condition no defect was noted that would necessitate secondary investigation or raise concerns that the tree is not safe

to retain. The tree is therefore not considered to pose a hazard to his home. A second, small suppressed Oak tree situated in the rear north-eastern corner of the garden is of such modest dimensions that it was not included within the TPO.

- 4.2 The TPO does not restrict his children using the tree as a climbing frame or support for a swing.
- 4.3 It is true that the interface between the ground level and the trees' lower stem is not visible from a public vantage point. However, the trees crowns are visible and arguably provide the most value in terms of creating a verdant backdrop to houses on Anderwood Drive and Middle Road in what is a built-up area.
- 4.4 The tree comprising of three stems in the rear of Mr Robertson-Gopffarth's garden forms the western end of the linear group of Oak trees that make-up G1 of the TPO. As such this tree is particularly important in terms of group stability. Its removal is likely to adversely affect the stability of companion trees in 17 Anderwood Drive and would be noticeable in terms of the retained trees habit of growth.
- 4.5 It is true that English Oak (*Quercus robur*) trees are not considered as rare nor are the protected trees noted as having any particular historic or cultural association. However, English Oak does have an intrinsic cultural value as the national tree.
- 4.6 The Oak trees included for protection by this TPO are important in terms of the character of the area and their removal or unsympathetic pruning would detrimentally affect the street scene.
- 4.7 The New Forest National Park encompasses open forest and village settlements, maintaining the character of residential areas within the national park is an important element of the NFNPA's aims.
- 4.8 Prior to undertaking work to the trees consent needs to be obtained by first submitting a tree work application. The tree work application process is not arduous nor does it impose a financial cost on the applicant. It should be noted that work to remove dead or storm damaged branches does not require consent and can be undertaken as an exception from application Five days notice of the intended work needs to be given to the NFNPA an e-mail or telephone call will suffice.
- 4.9 The ground conditions indicate that there was once a ditch on the boundary between properties of Anderwood Drive and Middle Road which over the lifetime of the development has gradually infilled. The trees will have adapted to this gradual change in growing conditions and ephemeral accumulations of water will not cause an unreasonable increased risk of the tree failing.
- 4.10 Tree owners human rights are considered prior to the TPO being served.
- 4.11 The Oak tree situated in the rear garden of 17 Anderwood Drive, Mr and Mrs Hetherington-Ford's property angle of growth is not so acute that it is not considered as safe to retain.

- 4.12 Removing low hanging branches affecting reasonable use of the garden by crown lifting the tree would not adversely affect a tree's health or amenity and should an application be submitted proposing this work it is likely that consent would be granted.
- 4.13 Most trees feeding roots are in the top 60cm of soil. However, structural roots will extend into deeper soil strata. Oak trees are not a species considered to have particularly shallow root systems.
- 4.14 No evidence has been submitted demonstrating that the trees are or are likely to cause direct or indirect damage to adjacent structures.

5. SUPPORT FOR THE ORDER

- 5.1 Two letters of support have been received, one from a local resident the other from Sway Parish Council.

Conclusion:

The Authority tree officer takes the view that the protected Oak trees make a positive contribution to public amenity the character of the area.

An error has been identified in the plotting of Oak T3 in the rear garden of 29 Anderwood Drive. This should be in the rear garden of 27 Anderwood Drive and should be corrected on confirmation.

Recommendation:

For the above reasons the Committee is recommended that Tree Preservation Order 38/15 be confirmed with the above modification.