

PLANNING COMMITTEE – 17 DECEMBER 2015

PART 1

Report of the Head of Planning

PART 1

Any other reports to be considered in the public session

TREE PRESERVATION ORDER NO 6 of 2015

ADDRESS: 30 Preston Park, Faversham, Kent. ME13 8LN

RECOMMENDATION: To confirm without modification Tree Preservation Order No 6 of 2015 for which objections have been received.

1.0 INTRODUCTION

1.01 The Copper Beech in question here is a mature specimen growing toward the rear garden boundary. It is approximately 18m in height with an average crown spread of 7m and a stem diameter of around 700mm when measured at 1.5m from ground level. The main trunk forks into two main stems at around 3.5m from ground level to form a broad spreading canopy.

1.02 In August 2015 application 15/504947/TPO to fell the Copper Beech at 30 Preston Park was submitted with the following reasons cited for removal of the tree;

1. Falling seed pods & leaf husks that block gutters and drains
2. Production of sticky sap on cars and windows
3. Canopy casts dense shade from noon until dusk.
4. Television reception to the residents of Raglans is a problem

At the time of inspection by the Council's tree consultant on 29th July 2015, the tree revealed no visual defects to suggest it is either unhealthy or unsafe. Its size and position make it a prominent feature of the area, being clearly visible from a number of surrounding public roads and footpaths.

1.03 The application was refused under delegated powers for the following reason:

The Copper Beech tree is a prominent specimen that is considered to make a positive contribution to local landscape quality and amenity. A visual inspection of the Beech carried out by the Council's Arboriculturist on the 29th July 2015

revealed no visual defects to suggest it is either unhealthy or unsafe. The Council does not consider that shading, falling leaves and seeds are sufficient reason to justify the felling of trees of perceived amenity value. On balance, it is not considered that the reasons put forward for felling outweigh the loss of amenity that would result.

Therefore, the Council does not consider that the evidence provided to support the reasons for the application are sufficiently robust to justify the proposed felling works, which would be to the detriment of local landscape quality and amenity and contrary to policy E10 of the Swale Borough Local Plan 2008, which is intended to confer protection to trees and tree cover in the area.

- 1.04 At the time the felling application was submitted the Beech was thought to be subject to TPO 6 of 1999 which on the Council's records showed as being confirmed by Planning Committee on 16th September 1999. Unfortunately, during the appeal process (which requires the Council to provide copies of the TPO documents for the Inspector) a signed copy of the confirmation for TPO 6 of 1999 could not be produced. Therefore, for the avoidance of doubt it was considered expedient to protect the Beech with a new order (TPO 6 of 2015) to ensure the tree remains protected and the appeal can proceed once this order has been confirmed. Accordingly, a new TPO was served to protect the tree on 16 September 2015 and the appeal is being held in abeyance until the new TPO 6 of 2015 has been confirmed.

2.0 REPRESENTATIONS

- 2.01 Objections to the new TPO have been received from the owners of 30 Preston Park within the statutory 28 days from the making of the TPO. Summary of objections:
- Our objections are those we have set out earlier in 1999
 - The only thing that has changed since then is that the tree has grown larger, with consequent increase in danger, expense and inconvenience of living in its shadow
 - No account is taken of the tree's appearance or character which is dark and forbidding
 - No thought has been given to how much better it would be to be able to see the sky and other more aesthetically pleasing trees
 - Those sitting in judgement should look up from the regulations and take in the reality of this "amenity"
 - It is a self sown forest tree
 - It overhangs three properties
 - Branches have fallen off in high winds, and the tree might fall in such circumstances

- Gardens are partly in shade from mid-morning and fully in shade from mid-afternoon
- We have tried reducing the crown but the tree has grown back
- We are approaching retirement and will not be able repeat this every few years
- We think it would be appropriate to replace the beech with a traditional fruit tree

3.0 APPRAISAL

- 3.01 Under the current TPO legislation all applications made to prune or fell protected trees need to be judged on an individual basis on the reasons put forward for the works and whether those reasons have sufficient weight to justify the works in the interests of sound arboricultural management.
- 3.02 In this case, all the reasons listed above are common associated problems when living near to mature trees and, whilst it is accepted that they can be an inconvenience, they are not considered to be sufficient grounds from an arboricultural perspective to remove healthy prominent trees.
- 3.03 Therefore, I do not consider that the reasons and supporting evidence are sufficiently robust to question the validity of the order and so I recommend that TPO 6 of 2015 be confirmed without modification as per the recommendation below.
- 3.04 Confirmation of the new TPO will allow the appeal Inspector to rule on whether the tree can be felled.

4.0 RECOMMENDATION

- 4.01 To CONFIRM TPO 6 of 2015 WITHOUT modification

Tree Preservation Order

Town and Country Planning Act 1990

The Tree Preservation Order No.6 of 2015

30 Preston Park, Faversham, ME13 8LN

The Swale Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

1. This Order may be cited as Tree Preservation Order No. 6 of 2015

Interpretation

2.— (1) In this Order "the authority" means the Swale Borough Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 16 day of September 2015

The Common Seal of Swale Borough Council

was hereunto affixed to this Order in the presence of—



Head of Legal Services/Authorised Officer



HG2/S007103/213519

SCHEDULE

Specification of trees

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Copper Beech	Growing within the rear garden of 30 Preston Park, Faversham

