



# **PLANNING COMMITTEE REPORT**

**TO:** Planning Committee South  
**BY:** Head of Development  
**DATE:** 16 October, 2018  
**SITE:** Cedars Byre, Parbrook, Billingshurst.  
**WARD:** Billingshurst & Shipley.  
**APPLICATION:** Tree Preservation Order No. 1506.

**REASON FOR INCLUSION ON AGENDA:** Objection to a tree preservation order.

**RECOMMENDATION:** To confirm tree preservation order 1506 as served.

## **1. THE PURPOSE OF THIS REPORT**

To consider whether tree preservation order 1506 should be confirmed as served.

### DESCRIPTION OF THE ORDER

- 1.1 Provisional tree preservation order 1506, Cedars Byre, Parbrook, Billingshurst, was served on the 18 May 2018 on a yew tree under the provisions of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. Under these Regulations, the tree included within the order benefited from immediate protection.
- 1.2 The statutory consultation period for the receipt of representations has now expired, enabling the order to be confirmed.

### DESCRIPTION OF THE SITE

- 1.3 The tree is sited in the far north-western corner of the property close to the boundary with Cedars Farmhouse to the west, and to the residential properties in Ostlers View, to the north.

## **2. INTRODUCTION**

### STATUTORY BACKGROUND

- 2.1 Section 198(1) of the **Town & Country Planning Act 1990** places an obligation on Local Planning Authorities to make a TPO if it appears to them to be "*expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area*".

### 3. OUTCOME OF CONSULTATIONS

#### PUBLIC CONSULTATIONS

- 3.1 Two letters of objection have been received in regard to the order, on the following grounds:
- That the species of tree in question is poisonous, and potentially damaging to human health by the release of toxic pollen;
  - That this pollen falls over parked vehicles, which “*isn't good for our cars*”;
  - That the tree is taller than the surrounding houses, and within striking distance of the closest should it suffer failure;
  - That it has been neglected, and, if retained, should be reduced in size to be more compatible with the nearby houses.

### 4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

Article 8 (Right to respect of a Private and Family Life) of the Human Rights act 1998 is relevant to this application. Human rights issues form part of the planning assessment below.

### 5. ASSESSMENT

- 5.1 At around 13m in height, the yew tree the subject of this report is a well-shapen specimen, save for the recent extensive cutting back of the parts of the crown to the north over the properties 3 and 7 Ostlers View, works carried out under rights of Common Law. The centre of the trunk is sited only 1.9m south of the northern boundary wall to the property, hence the trimming back of the lateral branches overhanging the gardens to the north is understandable, and reasonable. The tree does not appear to have suffered from this surgery, and is in excellent overall health and condition.
- 5.2 The premier view of the tree can be had from the gardens of the properties to the north, from where it is prominent and dominant, being in such close proximity to the common boundary. From the areas of public domain, in Ostlers View and Farriers Close, it is primarily hidden behind the houses; though can clearly be seen from Ostlers View between No. 3 and Nos. 5 and 7. It can also be seen, at a greater distance, from the lane to the south serving Cedars Byre, Cedars Farmhouse, and the newer residential properties it serves to the west. Overall, it is considered to have the requisite level of public amenity value to justify its long-term protection.
- 5.3 The tree is also a specimen of considerable age: its trunk at 1.5m above ground level has a diameter of 1088mm. The industry standard formula devised by **Tabbush & White (1996)** for the dating of yew trees calculates an age of around 375 years, suggesting that this tree probably dates from the 1640's. Given the longevity of the species, this would not meet the criteria as 'veteran' or 'ancient' as defined under **Ancient and other veteran trees: further guidance on management (Lonsdale, Ancient Tree Forum, Woodland Trust, 2013)**, but, interestingly, would meet the definition of “*locally notable*”. Prior to the recent residential development to the north, the tree appears to have been within the farmyard (or perhaps an orchard) adjoining Cedars Farmhouse, noted on the 1877 edition of the Ordnance Survey as 'Clark's Land'.
- 5.4 The **Planning Practice Guidance: Tree Preservation Orders and trees in conservation areas (2014)** advises that local authorities should assess the suitability of trees for formal protection taking into account visibility and “*individual, collective and wider impact*”, as well as a number of other lesser factors which alone would not warrant making an order. Included within the consideration of individual, collective and wider impact are the characteristics of “*rarity, cultural or historic value*”. This is not defined, but old yews provide a link with the past in cultural and historic terms, and have begun to have a raised profile in the public

consciousness, supported by such organisations as the Ancient Yew Group, the Conservation Foundation, and others. It is considered in this case that the age and species of this tree, as well as its original context associated with a farmhouse, meets the criteria in question, and adds support for the suitability of this tree for permanent protection.

- 5.5 The principle factor in regard to the objections is the proximity of the tree to the residential dwellings to the north. The release of pollen is a standard action of nature, and whilst its settlement on vehicles appears to represent no more than a minor nuisance in the everyday sense, it is true that the pollen is toxic to humans, and can cause headaches, lethargy, aching joints, itching and skin rashes; it can also be a trigger for asthma. This is of course common to all yew trees. The only way to eliminate this concern is to fell the tree, an action that would result in a loss of an asset of cultural and historic value, and harm to the amenities of the locality. Balancing the benefits of the tree to the many, whilst taking account of its inconvenience to the few, and paying due regard to the precedent that would be set for all yew trees within residential areas, it is considered that the objection carries insufficient weight to justify not confirming the order, thereby allowing the tree to be felled.
- 5.6 At 13m in height, the tree is certainly within striking distance of the nearest two residential dwellings to the north. However, it appears to be a specimen of typically sturdy root, with a low likelihood of rootplate failure; it is also stout of form, and has an excellent ratio between its height and crown spread and its stem girth.
- 5.7 An objector has recommended that the tree, if retained, should be reduced in size. Confirmation of the order is no barrier to carrying out such works, subject to formal consent. Any adverse determination may be subject to appeal.

## **6. RECOMMENDATIONS**

- 6.1 It is recommended that Tree Preservation Order 1506, Cedars Byre, Parbrook, Billingshurst, is confirmed as served.

Background Papers: Tree Preservation Order: 1506.