



**TO:** Planning Committee South  
**BY:** Head of Development  
**DATE:** 16 October, 2018  
**SITE:** Peat Moor, West Chiltington Road, Pulborough.  
**WARD:** Chanctonbury.  
**APPLICATION:** Tree Preservation Order No. 1508.

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

**RECOMMENDATION:** To confirm Tree Preservation Order 1508 as served.

## 1. THE PURPOSE OF THIS REPORT

To consider whether Tree Preservation Order 1508 should be confirmed as served.

### DESCRIPTION OF THE ORDER

- 1.1 Provisional Tree Preservation Order 1508, Peat Moor, West Chiltington Road, Pulborough, was served on the 18<sup>th</sup> May 2018 on a Corsican pine 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 on the western boundary of the property close to the adjoining residence, Acorn House, 1 Panners Drive. Around 50m south-west of West Chiltington Road, its trunk is within 2.2m of the common boundary fence, and is one of three large specimens along the boundary, all within Peat Moor.

## 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 to do so.

### PLANNING HISTORY

- 2.2 On 1 June 2006 appeals were allowed by the Planning Inspectorate for development of the Panners site, now known as Panners Drive, including the demolition of the existing dwelling and erection of 3 x new dwellings, with associated garages and access (planning references: *DC/05/1701*, *DC/05/2725*). As part of the subsequent construction works pursuant to the implementation of the one of these schemes (*DC/05/1701*), an access driveway was formed to Acorn House in accordance with the consent at a lower level than the previous land elevation along the eastern site boundary. The resultant variance in levels was revetted using large timber uni-posts, leaving a strip of elevated land adjacent to the fence approximately 6m in width.
- 2.3 On 24 November 2017 an application was received from the owner of Acorn House for the erection of a detached two-bay garage on the part of the property to the north-east of the dwelling, adjacent to the existing driveway area, set within, and requiring extensive excavation into, the raised strip (*DC/17/2376*). This application is presently undetermined.
- 2.4 Further to concerns that the proposed position of the garage, flanking the boundary fence immediately to the north-west of the tree, would cause extensive and likely terminal harm to it as a result of required excavations within its RPA (Root Protection Area, as defined under **BS 5837 'Trees in relation to design, demolition, and construction - Recommendations'** (2012)), the tree was assessed for its suitability for protection by a tree preservation order, TPO/1508 subsequently being served on 18th May 2018.

### **3. OUTCOME OF CONSULTATIONS**

#### **PUBLIC CONSULTATIONS**

- 3.1 A letter of objection has been received in regard to the order, on the following grounds:
- That the tree has no amenity value to the neighbourhood;
  - It is an extremely poor specimen, showing signs of decay and a dead stem;
  - It is unattractive, and not rare;
  - It is not considered likely that the works to erect the proposed garage would cause any harm to the tree.

### **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 assessment below.

### **5. ASSESSMENT**

- 5.1 The tree the subject of this report is a large mature specimen around 18m in height based upon 4 x principal stems emanating from a broad basal bole. It is the largest of the three principal trees along this boundary, there being a Douglas fir to the north, a cypress to the south.
- 5.2 Whereas the two trees either side of the pine are of similar height, neither is a specimen considered to meet the criteria for protection; the Douglas fir has been topped, and appears scrappy of form and weak, the cypress has an asymmetric crown as a result of its proximity to the Corsican pine (and another, smaller, tree between the two).
- 5.3 It is pointed out by the objector that the tree has a dead stem, this being the furthest west, visible most prominently from Acorn House. The stem in question has indeed died, and needs to be removed forthwith to avoid catastrophic failure. This should be carried out promptly, and could be so whether the tree was protected or not.

- 5.4 Otherwise, the tree appears to be in reasonable health and condition. Although its crown is not dense, its form is typical of the species, most of the active live growth being at the head of the tree, the internal part of the crown containing a great deal of deadwood as a result of natural senescence, also very typical of this species. This deadwood could be removed without the need for formal application, at any time.
- 5.5 It is stated by the objector that this tree cannot be seen from the roadway or any other neighbouring properties. It is true that the tree lies some 50m south of West Chiltington Road, a thoroughfare through the village, and from this aspect is not prominent or particularly noticeable – though it is visible. It can be seen from the junction of West Chiltington Road and Panners Drive, and from the three residencies on the Panners Drive estate. It can be seen from the junction of Monkmead Lane and Harborough Hill, though at a considerable distance. On balance, it can be said that the tree has predominantly localised amenity value.
- 5.6 Whilst accepting that the tree is not in any way “rare”, it cannot be accepted that it is inherently “unattractive”.
- 5.7 As noted above, S.198(1) of the **Town & Country Planning Act 1990** places an obligation on local planning authorities to make a TPO, specifically 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*”. Hence in making the decision as to whether to afford a tree protection it is required to consider expediency, or need, for an order, in conjunction with the merit of the specimen itself and its amenity value to the public.
- 5.8 The objector attests that the works necessary to erect the proposed garage would not cause it any harm, obviating the need for the TPO. Extensive excavations would be necessary to make room for the garage, which would need to match the elevation of the existing driveway. Thereby, a considerable breadth of spoil, to within less than 2.5m of the base of the tree, would need to be removed. This would cause extensive and likely terminal harm to the tree, and is in conflict with BS 5837. The fact that the tree has appeared to develop a dead stem further to, and on the commensurate side of, the excavation works to install the lower-level driveway (also within the tree’s RPA) some years ago is circumstantial – but telling. It is considered accordingly that the proposal put forward places a strong threat to the future of the tree, ramping up the expediency for its protection. It is therefore considered that there is justification in confirming the order.

## 6. RECOMMENDATIONS

It is recommended that Tree Preservation Order 1508, Peat Moor, West Chiltington Road, Pulborough, is confirmed as served.

Background Papers: Tree Preservation Order: 1508.