



TO: Planning Committee South
BY: Head of Development
DATE: 16 October, 2018
SITE: Highbanks, Church Street, West Chiltington.
WARD: Chanctonbury.
APPLICATION: Tree Preservation Order No. 1510.

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

RECOMMENDATION: To confirm Tree Preservation Order 1510 as served.

1. THE PURPOSE OF THIS REPORT

To consider whether Tree Preservation Order 1510 should be confirmed as served.

DESCRIPTION OF THE ORDER

- 1.1 Provisional Tree Preservation Order 1510, Highbanks, Church Street, West Chiltington, was served on the 13th June 2018 on an oak 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 south-western corner of the property close to the boundary with Kensington Cottage to the south and Church Street to the west. This land is at a significantly higher elevation than the adjacent roadway (by around 3m), there being a steep bank leading from the property to street level, a wooden stairway to the north of the tree providing pedestrian access to Church Street. At around 5m to the south of the tree, a cutting was excavated some years ago to provide a vehicular access to Kensington Cottage; the northern side of this cutting is revetted by a retaining wall faced with slabwork in a 'crazy-paving' formation.

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*".

PLANNING HISTORY

- 2.2 On 11 May 2018 an application was received from the owner of the property for planning permission to cut away the southern side of the existing embankment to create a new highway access and front driveway mirroring, and abutting, the existing driveway to Kensington Cottage (ref: *DC/18/1006*). This application was refused on 6 July 2018 on the grounds that the proposed development would lead to a loss of landscaping features, including significant harm to a protected tree within the site boundary, which would adversely affect the townscape character and visual amenity of the area, contrary to Policies 25 and 33 of the Horsham District Planning Framework (2015).

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 was not protected at the time of the submission of the application for planning permission for the excavated driveway;
 - It is considered that there would be very little damage if any to the root system from the proposed excavation works, and that such damage that might occur could be compensated for by pruning the tree;
 - Some branches of the tree are troubling the roof to an adjacent property and additionally fouling overhead service lines.

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 16m in height with a broad-spreading full crown. It has a stout trunk, 1028mm in diameter at chest height, and an extensive rootplate of a form commensurate with the level land to the east and the steep bank down to road level to the west. It is fully crowned, of well-balanced shape, and exhibits excellent health and vitality.
- 5.2 From the four properties on the high bank to the east of the tree, including Highbanks and Kensington Cottage, this is a prominent and dominating specimen. From the wider residential area of The Juggs, further to the east, it can be seen, though is not prominent. By far the best views of the tree, within the public domain, come from Holly Close, the roadway due west of the tree serving the 42 residential properties herein as well as Curbey Close. Proceeding east along this roadway the tree is strikingly prominent, and of very high amenity value. It is also prominent within Church Street, most particularly when viewed from the south.

- 5.3 The order was served upon the tree so as to provide protection for it as it was considered that the proposals put forward in the planning application for excavations on its southern side would cause major and extensive root severance from which it could not recover. Such action by the Council is in accordance with its statutory duties under S.198 of the **Town & Country Planning Act 1990**.
- 5.4 The consideration that such root severance could be in some way compensated for by pruning of the crown is erroneous.
- 5.5 Where any branches are causing a nuisance by fouling buildings or service lines, these may be trimmed so far as is necessary to abate that nuisance without the need to submit any formal application in accordance with S.14 of the **Town & Country Planning (Tree Preservation) (England) Regulations (2012)**. The confirmation of the order does not prevent this.

6. RECOMMENDATIONS

It is recommended that Tree Preservation Order 1510, Highbanks, Church Street, West Chiltington, is confirmed as served.

Background Papers: Tree Preservation Order: 1510.