



Horsham
District
Council

PLANNING COMMITTEE REPORT

TO: Planning Committee North
BY: Head of Development and Building Control
DATE: 13 April 2021
SITE: 202 St Leonards Road, Horsham.
WARD: Forest Neighbourhood Council, Horsham.
APPLICATION: Tree Preservation Order No. 1541.

REASON FOR INCLUSION ON AGENDA: Objection to a Tree Preservation Order.

RECOMMENDATION: To confirm Tree Preservation Order 1541.

1. THE PURPOSE OF THIS REPORT

To consider whether Tree Preservation Order 1541 should be confirmed.

DESCRIPTION OF THE ORDER

- 1.1 Provisional Tree Preservation Order 1541, 202 St Leonards Road, Horsham, was served on the 8th of October 2020 on one 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 Oak tree in question is situated within the rear garden of 202 St Leonards Road, Horsham.

PLANNING HISTORY

- 1.4 N/A

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 A letter of objection has been received from a resident who lives in an adjacent dwelling. The grounds for the objection are:
- The tree is very large and overhangs and overshadows their garden.
 - Concerns regarding the trees stability after long period of rain and strong winds.
 - The potential risk to their property should the tree fail.
 - Dead wood in the tree.
 - The need to apply to the Council to have works undertaken on 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 planning assessment below.

5. PLANNING ASSESSMENT

- 5.1 In the rear garden of the private residential property 202 St Leonards Road, Horsham, is a substantial oak tree, a specimen of good health and condition, in semi-maturity. The tree is clearly an old field edge tree, and is one of the last remaining large trees along this boundary that pre-dates the development in the area in the early 1970's. This boundary now constituting the property boundary between the residence and Heron Way Primary School.
- 5.2 From St Leonards Road to the west, the tree is somewhat obscured behind the houses, though it can be readily seen through the gap between Nos. 202 and 204. However, from the playing fields at Heron Way Primary School it particularly stands out and can be readily seen from a wide area, and at a considerable distance. In amenity terms, it is considered to meet the criteria needed for formal protection, as confirmed by its 'score' reached by using the TEMPO tool (*Tree Evolution Method for Preservation Orders*) as devised by Forbes-Laird (14).
- 5.3 Although the tree lies presently under the guardianship of the existing property owner. The Council has been advised that the present property owners are looking to move and will be disposing of the property. Para. 10 of the publication *Planning Practice Guidance: Tree Preservation Orders and trees in Conservation Area (2014)* advises that “*changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make [TPO's] as a precaution*”

- 5.4 Without the protection of a Tree Preservation Order, any new homeowner could legitimately remove the tree if they see fit to do so. It is considered that this would result in a profound and highly unsatisfactory loss to amenity to the area, contrary to the Council's environmental aims and to Section 198(1) of the Town & Country Planning Act 1990. It is accordingly recommend that the order be confirmed.
- 5.5 In respect of the concerns raised by the objector, the confirmation of the TPO does not mean that appropriate and sensitive works to the tree cannot be carried out to ensure it does not shed dead wood or become unstable. Such works though must legally be agreed with the Council's arboricultural officers by way of formal application.

6. **RECOMMENDATIONS**

It is recommended that Tree Preservation Order 1541, 202 St Leonards Road, Horsham, is confirmed.

Background Papers:

- Tree Preservation Order: 1541.
- TPO Request: R/19/1178

Contact Officer: Andrew Bush.