



Horsham District Council

PLANNING COMMITTEE REPORT

TO: Planning Committee South
BY: Head of Development and Building Control
DATE: 21st June 2022
SITE: Land at Southmill House, Mill Road, West Chiltington.
WARD: West Chiltington, Thakeham and Ashington.
APPLICATION: Tree Preservation Order No. 1551.

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

RECOMMENDATION: To confirm Tree Preservation Order 1551

1. THE PURPOSE OF THIS REPORT

To consider whether Tree Preservation Order 1551 should be confirmed.

DESCRIPTION OF THE ORDER

- 1.1 Provisional Tree Preservation Order 1551, Land at Southmill House, Mill Road, West Chiltington, was served on 25th of January 2022 on six individual and one group of four oak trees under the provisions of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. Under these Regulations, the trees 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 All the trees are located within the garden/field to the east of the property Southmill House, Mill Road, West Chiltington. T1 is located at the rear of the dwelling known as Springwood, on Mill Road. The trees identified in the order as T2, T3, T4, T5 and T6 are sited on the eastern boundary of the field immediately south of the property Trian by The Mill, The Hollow. Public right of way 2421 runs in a west-easterly direction, along the northern boundary of Trian by The Mill and of the adjacent field to the west. The trees identified in the order as G1 sit in a central location towards the southern part of the field, with the properties known as Wilmaray and Oakmere, also located on Mill Road, sit beyond to the southwest.

PLANNING HISTORY

- 1.4 On 26th October 2021 the Council received an application for outline planning permission for the erection of up to 18 dwellings on the site (*ref: DC/21/2429*). The application was subsequently withdrawn by the applicant on 29th April 2022.

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 Letters of support have been received in regard to this order from eight addresses in the vicinity of the site.
- 3.2 A single letter of objection has been received from an agent whose clients hold an interest in the land. The grounds for the objection are:
- i. As part of the recent application for planning permission, a comprehensive tree survey was carried out highlighting the value of the trees in question and has been used to advise the design and layout of the scheme.
 - ii. It has always been the intention of the objectors to retain the trees identified in the order as T2, T3, T4, T5 and T6. They have always intended to co-operate with the LPA, to manage and mitigate any potential impact on the trees and their Root Protection Area's (RPA), and they consider that the inclusion of these trees in the new order is unnecessary.
 - iii. The group of trees identified in the order as G1 have been listed as category B and C trees in the tree survey and the objector considers that they are not worthy of retention in the long term as they provide poor landscape, ecological and visual amenity value to the locality, and they are poorly formed specimens.
 - iv. The objector considers that the retention of G1 will jeopardise the most effective use of the site, as this part of the development has been identified as the location of the affordable housing allocation at the site.
 - v. Comments provided by the Councils Arboricultural Officer in their consultation response on the application DC/21/2429; regarding the pre-application tree felling at the site, despite the trees being free from any planning constraints at the time of removal. Comments regarding the pressure the trees may be under due to the change of use of the site for residential use.
 - vi. The objector claims that all the trees, and in particular T1 and G1 are not sufficiently visible from a public place to warrant their inclusion in the order.
 - vii. The objectors are concerned that the proposed order will jeopardise and compromise the viability and delivery of housing at the site.

West Chiltington Parish Council: Support

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 An outline application for planning permission was submitted to the Council for the demolition of the residential dwelling known as Southmill House on Mill Road, West Chiltington, to allow for the erection of 18 houses in the field/large garden to the rear/east of the property. The site was inspected by the Council's Arboricultural officer, where it was found that several trees in the centre of the site had recently been felled before the application was submitted to the Council for determination.
- 5.2 Along with a considerable number of trees of low merit were 6 individual trees of high public visual amenity value and 4 old ditch line trees, which as a group are considered to add to the overall rural feel of the area and screen the site from the properties to the south. The trees in question are all semi-mature to mature oaks. The trees indicated as T2, T3, T4, T5, and T6 are sited along the eastern periphery of the field. T1 is situated on the western boundary of the field, and the line of trees that form G1 are located in the southern part of the site.
- 5.3 T1, T2, T3, T4, T5 and T6 are large old specimens of high individual merit. In good condition and health, they generally have widespread crowns typical of the species and have a highly pleasing appearance. The trees that form G1 are a group of old ditch line trees, which as a group are considered to add to the overall wooded rural feel of the site.
- 5.4 The main public view of T2, T3, T4, T5, and T6 is from the public footpath that runs to the northeast of the site; from this aspect, the line of trees can readily be seen in their entirety and indeed represent the principal landscape amenity feature in the area. The primary public view of T1 is from the east on Mill Road where the tree can be seen through two brakes in the property line, between Millview and Springwood, and Melverley and Bancroft.
- 5.5 The main public view of the trees in G1 is from the West Chiltington Village Hall carpark; 110m to the east of the site. Due to their size, their crowns are clearly visible above the roof line of the bungalow Wilmaray. During the site visit, some minor deadwood was observed within the crowns of the trees in the group. However, this was not considered to be excessive for trees of their age, and the overall condition and health of the trees is deemed to be good. It is also noted that the trees within G1 screen the site from the properties to the south. Para 3.2 of Tree Preservation Orders: A Guide to the Law and Good Practice states that "*trees may be worthy of preservation for their intrinsic beauty or contribution to the landscape or because they serve to screen an eyesore or future development*". On this basis it is considered that the protection of these trees is justified, should the site be developed for residential usage and on visual amenity grounds.
- 5.6 The Objector states a comprehensive tree survey was carried out and has been used to advise the design and layout of the scheme. Having assessed the case file, I could not find any record of a Tree Survey being submitted to support the application. The level of threat to the trees and comments provided by the Council's Arboricultural officer in their consultation response were based upon the evidence gathered during the site visit and the proposed site plan (PSP) drawing number 19341/OP102, as well as the other documents that had been submitted to support the development proposals at the site.
- 5.7 It is acknowledged that trees T1 to T6 were shown for retention on the proposed site plan. However, from the plans, it was apparent that there would still be a significant level of development within the Root Protection Areas (RPA's) of T4, T7, T8 and T9. In addition,

due to the proximity of the proposed dwellings to the trees, any new property owners are likely to experience and have concerns with several common tree related issues. These include problems with the level of natural light entering the gardens and rear of the properties, leaf litter blocking drains and gutters, deadwood dropping in the gardens and bird droppings. Such issues are all common concerns that a new property owner may have with the retention of mature countryside trees within a residential curtilage. It is likely that the retention of the trees in such a setting would increase the potential for injudicious surgery or removal to abate any concerns the new property owners could have with the trees and the impact on their reasonable use and enjoyment of their new property.

- 5.8 Since the serving of TPO/1551 application DC/21/2429 has been withdrawn by the applicant. Should revised plans be submitted, it might be feasible to integrate the trees within an alternative site layout proposal. However, it is considered that the amenity value and importance of these specific oaks is such that it is in the public interest that their retention is emphasised and indeed assured, so far as is possible.
- 5.9 Without the protection of a tree preservation order, the trees at the site could be heavily pruned or removed legitimately should those with an interest in the land see fit to do so. It is considered that either of these actions would result in a profound and highly unsatisfactory loss of 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 recommended that the order be confirmed.

6. **RECOMMENDATIONS**

- 6.1 It is recommended that Tree Preservation Order 1551- Land at Southmill House, Mill Road, West Chilton, be confirmed.