



**Horsham  
District  
Council**

# **DEVELOPMENT MANAGEMENT REPORT**

**TO:** Development Management Committee (North)  
**BY:** Development Manager  
**DATE:** 1 November 2016  
**SITE:** Land at Warnham Village Hall, Hollands Way, Warnham.  
**WARD:** Itchingfield, Slinfold and Warnham  
**CASE:** Tree Preservation Order No. 1490

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

**RECOMMENDATION:** To confirm Tree Preservation Order 1490.

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

To consider whether Tree Preservation Order 1490 should be confirmed.

### DESCRIPTION OF THE ORDER

- 1.1 Provisional Tree Preservation Order 1490, Land at Warnham Village Hall, Hollands Way, Warnham, was served on the 16<sup>th</sup> May 2016 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 on an area of public open space to the immediate north of the formal play area, and NW of the huge old oak tree in the centre of the open space. The site is designated by the presence of the low fence that separates it from the cricket ground, to the north. It is fully within the local conservation area.

### PLANNING HISTORY

- 1.4 On 15<sup>th</sup> March 2016 a notification was received under S.211 of the Town & Country Planning Act 1990 of an intention to fell the tree (ref: *DC/16/0698*).

## 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*".
- 2.2 Section 211 of the **Town & Country Planning Act 1990** allows Local Planning Authorities to make a TPO on trees within a conservation area "*if justified in the interests of amenity*".
- 2.3 Section 211 does not permit the refusal of a notice of intent to remove a tree protected under the conservation area regulations. Should the Local Planning Authority seek the retention of a tree in such circumstances, it must – and can only - serve a preservation order upon the tree, should this be considered justified.

## 3. OUTCOME OF CONSULTATIONS

### PUBLIC CONSULTATIONS

- 3.1 A letter of objection has been received from Warnham Parish Council, as the owners of the land, on the grounds that:
- The trees is not considered to be of high value, as it was self-seeded and has a split bough;
  - The tree is in an inappropriate location in terms of its proximity to the large oak tree which is likely to be present for many more years;
  - The tree is in an inappropriate location within the children's play area where it prevents the opportunity to increase the amount of equipment available to local young residents.

## 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 The cricket ground at Warnham is a wide area of open space of highly pleasing aesthetic appearance, its perimeter marked by a range of young and semi-mature trees of generally excellent quality. Providing a background to the bucolic scene, the trees are central to the appearance of the area, and strongly support its inclusion within the local conservation area.
- 5.2 The area of public open space including the public playground is set to the south of the cricket ground, and to the west of the village hall. Upon this land is the exceptionally large oak tree noted in the letter of objection, a magnificent veteran specimen of great age and stature; it is protected by virtue of its position within the conservation area.
- 5.3 The tree the subject of this report stands alone slightly to the north-west of the older tree, in very close proximity to the boundary fence to the cricket ground. At around half the height of the veteran tree, it nonetheless stands fully apart from it, and has clear amenity merit in its own right. It can be seen from right across the cricket ground; from many of the residential dwellings in Stanford Orchard, Gardeners Close, and Lucas Road; and stands proudly as a marker to the southern boundary of the ground. Despite its smaller size than

the adjacent veteran oak, it is accordingly considered that it has high amenity value in its own right.

- 5.4 It is attested by the objector that the tree “*has a split bough*”. It is assumed that this refers to the principal bifurcation in the tree, the fork displaying the normal characteristics of a youthful, healthy tree, and not constituting any compromise to its structural integrity or its future successful development into maturity.
- 5.5 The objector also considers that the tree is in an inappropriate location in terms of its proximity to the adjacent veteran oak tree. The substantiation behind this observation is unclear, as the younger tree appears to be sufficiently far away from the older tree, as can be witnessed by the gap between the crowns of each, and it has already a well-formed young crown of its own. It is not clear how long the veteran tree will ‘last’, though its presence appears to be no impediment to the successful maturity of the younger tree. And, if retained in the long-term, the younger tree can naturally replace the veteran (indeed, it may in fact be a direct offspring of the larger tree).
- 5.6 The reason given for the proposed removal of this tree was to facilitate an extension to the playground facilities; indeed, the objector attests that its presence prevents the opportunity to increase the size of this facility. However, this does not appear to be correct; further space for equipment could be utilised elsewhere on the site, away from the tree.
- 5.7 It is concluded that this tree, despite its youth, is an excellent specimen for the future, a tree of high visual amenity importance within a highly attractive part of the village. Its removal would constitute an inappropriate and unjustified loss of amenity to the locality, contrary to the spirit of the conservation area.
- 5.8 It is accordingly recommended that the preservation order on the tree be confirmed.

## 6. **RECOMMENDATIONS**

It is recommended that Tree Preservation Order 1490, Land at Warnham Village Hall, Hollands Way, Warnham, is confirmed.

### Background Papers:

- Tree Preservation Order: 1490.
- Planning application: DC/16/0698.