

<b>TPO NO.</b>	24/2007
<b>SERVED</b>	11 June 2007
<b>PARISH</b>	Woodcote
<b>WARD MEMBER</b>	Robin Peirce
<b>SITE</b>	9 Grimmer Way, Woodcote
<b>GRID REF</b>	SU48041659
<b>CASE OFFICER</b>	Jasper Fulford-Dobson

## 1.0 INTRODUCTION

- 1.1 The purpose of this report is to seek the confirmation of Tree Preservation Order (TPO) No. 24/2007, whilst giving consideration to the submitted objection.

## 2.0 BACKGROUND

- 2.1 On 01 June 2007 the Temporary Tree Officer carried out a site visit at 9 Grimmer Way, Woodcote in order to assess the implications for any trees in relation to planning application P07/E0403 for a single storey front porch, two storey side extension and conservatory to rear.
- 2.2 In the rear garden of 9 Grimmer Way stands a large mature Ash tree with considerable public visual amenity. However the plans for the application did not show the tree plotted or make any reference to it as a potential constraint. The side extension was sited well within the root protection area and to the north of the tree. It was therefore considered that the development would be potentially detrimental to the roots of the tree as well as placing greater pressure on the tree for inappropriate works or even removal from the current or any future occupiers of the property due to the shade cast onto the new build and the perceived threat in high winds.
- 2.3 A TPO assessment was carried out and I **attach** this as Appendix 1. A TPO was subsequently served based on the significant public visual amenity it provided for this part of the village and the potential threat it was under. BS:5837 – 2005 “Trees in Relation to Construction – Recommendations” states in section A.4.2 that “it is usually appropriate for a TPO to be placed on trees that are an amenity and structurally sound. The effect of proposed development on trees protected by a TPO ranks as material consideration, which should be considered by the local planning authority (LPA) when determining a planning application under section 70 of the Town and Country Planning Act 1990”. This tree would be categorised as having a life expectancy of 20+ years and being worthy of retention under the BS:5837 survey methods.
- 2.4 The ash tree contained within the above Order is publicly visible and contributes significantly to the visual amenity of this area of Woodcote. The tree forms an

important landscape feature and I have included some photographs of the tree (**attached** as Appendix 2) taken at the time of my TPO assessment to show the impact it makes to the area as viewed from various locations. It is considered to be in the interests of amenity to make the ash tree subject to a TPO since the tree or at least a part of it can be seen from Greenmore, Birchen Close, Lackmore Gardens, Baldons Close, Beckley Close, and Grimmer Way and creates a softening to the built-up area. The tree is also visible in full or part from properties not generally considered public spaces but from which the public may view the tree.

2.5 On the 26 June 2007 the Council received a letter of objection (**attached** as Appendix 3) to the TPO from Mrs. Pearle Lawrence of 7 Grimmer Way, Woodcote. I wrote to her addressing her objections, but she has not withdrawn them.

### **3.0 REASONS FOR OBJECTION**

3.1 The reasons for objection received in the letter from Mrs. Lawrence are summarised below.

- 3.2
  1. The tree poses a risk to her property and perhaps even to her.
  2. She is concerned about the twigs and branches that fall from the tree onto the roof of her house and garden.
  3. Some ten years ago she and the then owner of 9 Grimmer Way were advised by a tree surgeon that the tree was dying and would need to be removed in about ten years time. That ten year period is up and it does not make sense to apply a TPO to a tree that is essentially almost dead.
  4. She made representations concerning the planning application (P07/E0403) for the extension at 9 Grimmer Way, her concern was that the foundations for the proposed extension might damage the Ash tree's roots and so increase the risk the tree poses to her property. She wants it removed before it falls down or continues shedding branches so that she can continue to live 7 Grimmer Way with the peace of mind that an eighty year-old lady deserves.
  5. If the TPO is applied she will be forced to live with increasing anxiety that she or her property will be damaged by falling branches, and the worry that she is no longer fit or strong enough to cope with removing the branches that will inevitably fall from the tree during any high winds.

### **4.0 APPRAISAL**

4.1 When giving consideration to the confirmation of this Order Members are advised to take account of the following points which address the concerns raised in the objections above:

4.2 My TPO assessment was carried out from outside the property of 9 Grimmer Way, since at the time the owner/occupier was not in. The tree appeared to be in a relatively sound and healthy condition with no outward signs of any significant defects or decay. There was a full canopy of leaves with no signs of any dieback. If

a tree is in a relatively sound and healthy condition with no outward signs of any significant defects or decay at the time of inspection, then it is not reasonably foreseeable that the tree or a part of it will fail. There are no guarantees in nature and even sound and healthy trees can sometime shed branches in storm conditions. However, if we removed all the sound and healthy trees that may possibly cause damage to property in storm conditions then we would have no trees near houses at all.

- 4.3 The dropping of leaves or small twigs is normal for mature, deciduous trees and the clearance of this debris is considered to be part of the normal maintenance of a property and should not justify the removal or unnecessary pruning of this significant Ash. The Council has a green waste collection service and various recycling centres stationed around the District, the nearest one for Woodcote being at Oakley Wood.
- 4.4 The TPO Guide to the Law and Good Practise (DETR) states “the LPA’s consent is not required for cutting down or carrying out work on trees which are dead, dying or have become dangerous. In the Secretary of State’s view, this exemption allows the removal of deadwood from a tree or the removal of dangerous branches from an otherwise sound tree. Anyone proposing to cut down or carry out works to a tree under this exemption is advised to give the LPA five day’s notice before carrying out the work, except in an emergency. Determining whether a tree is dangerous is not always a straightforward matter, and anyone who is not sure whether the tree falls within the above exemptions is advised to obtain the advice of a qualified arboriculturist. If work is carried out on a protected tree under this exemption, the burden of proof to show, on the balance of probabilities, that the tree was dead, dying or dangerous rests with the defendant”.

- The trunk of the Ash was covered in ivy, so even if I was able to access the
- 4.5 property and closely inspect the trunk, I would not have been able to carry out a full Visual Tree Assessment (VTA) (Mattheck and Breloer 1994) without severing and removing all the ivy. The tree has had some branch removal carried out in the past; most likely, it appears, in the form of crown thinning. Also it is evident that some lower branches and other branches within the crown that overhang the property of 7 Grimmer Way have been removed at source.

- If, after a full VTA by a qualified arboriculturist certain works are recommended as
- 4.6 part of an application or, if appropriate a five day notice, then the LPA will look favourable on this and most likely grant consent if the proposed work is considered to be appropriate. Trees in close proximity to buildings and people should be regularly inspected and in this case I would recommend that this tree is inspected every two years. In my opinion the tree surgeon that inspected this tree ten years ago and predicted that it would be dead has not provided the correct advice.
- 4.7 An application for works to the tree was submitted to the Council in November by Mr. Disso, the owner of 9 Grimmer Way. The proposal was to significantly reduce the tree due to safety concerns and the fact it overhangs into the neighbour’s garden. The application made no reference to a report or VTA carried out by a qualified arboriculturist and was not supported by any report or evidence that the

tree was dangerous. After assessing the application on its merits, a decision letter was sent from the Council giving consent to sever the ivy and crown clean only. Crown cleaning involves the removal of dead, dying, diseased, broken, crowded, weakly attached and low vigour branches. Significant reduction of the crown would result in prolific re-growth at the pruning wounds and create a denser and potentially more hazardous crown, also the natural branching habit and public visual amenity of the tree would be significantly diminished.

- 4.8 I am in agreement with Mrs. Laurence that the proposed extension at 9 Grimmer Way (P07/E0403) would increase the risk the tree poses to her property due to the roots being damaged by the foundations and associated works. That is why I objected to the application on tree grounds and subsequently placed the tree under a TPO.
- 4.9 The TPO would help to ensure that the right advice and guidance was obtained and ensure that sound future management would be pursued. With appropriate management trees, buildings and their occupants can and must co-exist if we are to have the benefits of trees within the urban environment.

## 5.0 POLICY & GUIDANCE

- 5.1 The South Oxfordshire Local Plan adopted 1997 and the draft South Oxfordshire Local Plan June 2002 recognises the contribution that trees make to the appearance and character of towns and villages within the District and commits the Council to preserving and retaining existing trees. These aims are embodied in Policy C16 which states:

*C16: "trees or areas of woodland which are important to the local scene will be protected and development, which would normally result in the loss of important trees and hedgerows, will not normally be permitted".*

- 5.2 In order to ensure consistent interpretation of the TPO legislation guidance has been sought from the DETR publication "Tree Preservation Orders. A Guide to the Law and Good Practice".

## 6.0 CONCLUSION

- 6.1 The tree is considered worthy of the Order because:

- Both the amenity value assessment (appendix 1) and the photographs (appendix 2) clearly demonstrate that the Ash tree has significant public amenity value when assessed in line with Government guidance.
- Based on my observations (and in accordance with BS:5837-2005) it would be reasonable to assume that the Ash tree has a useful life expectancy of 20+ years.

- The tree is an established feature of the landscape of the area and is worthy of retention.

## **7.0 RECOMMENDATION**

7.1 That Tree Preservation Order No. 24/2007 is confirmed.

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## **APPENDIX 1: TREE PRESERVATION ORDER ASSESSMENT**

## **APPENDIX 2: PHOTOGRAPHS OF THE ASH TREE**

## **APPENDIX 3: LETTER OF OBJECTION**