



Broad Oak Tree Consultants Limited

Laurel House, Burwash Road, Broad Oak, Heathfield, East Sussex TN21 8SS
Tel: 01435 862444 Fax: 01435 863222 Email: broadoaktrees@btconnect.com

**OBJECTION ON BEHALF OF
H. R. WALLINGFORD LTD.**

TO

TREE PRESERVATION ORDER NO.: 15/2009

AT

**HOWBERY PARK
BENSON LANE
CROWMARSH GIFFORD
WALLINGFORD
OX10 8BA**

BY

**Tim Laddiman
BSc(Hons) M.I.C.For. M.Arbor.A.
Chartered Arboriculturist**

**Our ref: J37.85
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1. INTRODUCTION

- 1.1 This objection to Tree Preservation Order No. 15/2009 has been prepared on behalf of H.R. Wallingford Limited, the freehold owners of Howbery Park.
- 1.2 A succinct and detailed objection to the Tree Preservation Order has previously been prepared by Vincent and Gorbng Planning Associates. This is considered a valid objection which covers a number of arboricultural related matters which it is not intended to repeat wholesale in this objection, though they are fully supported by the author.
- 1.3 Broad Oak Tree Consultants Ltd. have been providing detailed arboricultural advice to H.R. Wallingford Limited since 2007, in which time there has been no incidents of malicious felling of trees that would suggest an attempt to clear areas of the site for development purposes.
- 1.4 The main thrust of this objection is assessing whether the trees on the site meet the required criteria for inclusion in a Tree Preservation Order, whether the placing of the Tree Preservation Order was expedient and whether the inclusion of specific trees as individuals, groups and woodlands was appropriate.
- 1.5 Reference will be made in this objection to the DETR publication "Tree Preservation Orders – A Guide to the Law and Good Practice" (2000). For simplicity this publication is known throughout the industry as "The Blue Book" and this reference is applied to this text.

2. CRITERIA FOR INCLUSION IN A TREE PRESERVATION ORDER

- 2.1 Chapter 3 "Making and Confirming Tree Preservation Orders" in the Blue Book begins by stating that "LPAs may make a Tree Preservation Order 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..."*. Amenity is then discussed in the next sub-section with the following sentence being extremely relevant and valid in the context of Howbery Park: *"...In the Secretary or State's view, Tree Preservation Orders should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before Tree Preservation Orders are made or confirmed..."*.
- 2.2 The modified Order as it stands lists the following:
 - 89 individual trees.
 - 23 Groups.
 - 5 Woodlands.
- 2.3 These cover the majority of trees on the site, including mature crab apples of less than 4m height, dense groups of cypress and riverside shrubs. Whilst certain trees are visible from limited public view points along Benson Lane and from the footpath on the far side of the river, there is a significant proportion of the trees internal to the site that are not visible to the general public. It is considered highly probable that the majority of the trees internal to the site could be removed without any member of the public being aware that they were ever there.

- 2.4 The assumption that all of these trees meet this basic criteria for inclusion in a Tree Preservation Order is therefore incorrect. The majority are not 'select' trees and their removal would not have a 'significant' impact on the local environment or its enjoyment by the public.
- 2.5 At this time the author is unaware whether the Council have submitted any structured assessment of the amenity value of the trees placed in the Order. This would be considered imperative for an Order of this magnitude and which has such a stifling impact on the day to day maintenance and management of the Estate.
- 2.6 Following on from the Blue Book reference to 'Amenity' Section 3.3. addresses how the LPA should be able to define why trees/woodland have been included in a Tree Preservation Order taking into account the following three key criteria.
- Visibility.
 - Individual impact.
 - Wider impact
- 2.7 Under 'visibility' the Blue Book indicates that the public visibility of the trees or woodland and its impact on the local environment must be "significant". It states that: "...*If they can not be seen or are just barely visible from the public place, a Tree Preservation Order might only be justified in exceptional circumstances...*". No evidence has been provided by the Council that exceptional circumstances exist to include the majority of trees internal to the site that can not be readily seen from a public viewpoint.
- 2.8 Within 'individual impact' the Blue Book states: "...*The mere fact that a tree is publicly visible will not in itself be sufficient to warrant a Tree Preservation Order...*". It goes on to refer to the LPA assessing the trees 'particular importance'. For many of the internal smaller trees and those that are poorly formed, in particular the 15 apples in Group 12, it is clear that these criteria are not met and no assessment to prove that they meet these criteria has been provided.
- 2.9 The 'wider impact' criteria looks at the 'significance' of the trees in their local surroundings and again many of the trees included, particularly in group classifications, do not provide any valid landscape or visual amenity contribution noticeable by the general public.
- 2.10 In considering the suitability of trees for inclusion in a Tree Preservation Order under these key criteria the Council has to justify the case for the individual trees, groups and woodlands beyond a general reference to protecting the local amenity. It has to be realised that those people assessing the trees are not viewing them as 'members of the public' but as specifically orientated professionals with an agenda for placing the Tree Preservation Order. The value to the wider public becomes muddled by personal views of the quality of trees and their hypothetical status in the landscape.

3. EXPEDIENCY

- 3.1 The Blue Book refers to the placing of a Tree Preservation Order not being expedient if the trees are under good arboricultural or silvicultural management. The objection submitted by Vincent and Gorbing refers to the planning history of the site and it is clear how the past developments have been slotted in around mature trees to preserve the character of the setting.

- 3.2 The site has a dedicated grounds team who tend to day to day maintenance of the grounds which includes the trees. This ongoing work has maintained the appearance and character of the setting to the manor house and its grounds whilst constantly addressing day to day issues of health and safety and maintaining clearance of roads, paths and parking areas. In any circumstances the history of management on the site and the presence of a specific grounds team, rather than occasional contractors, shows that the site is being well managed and maintained.
- 3.3 The imposition of such a wholesale Tree Preservation Order can not be seen as beneficial to the management of the Estate as it introduces a plethora of paperwork and delays to the day to day running. A conversation with Mr. J. Conway, the Head Grounds man, highlighted these concerns which can not be dismissed by the Council as not been of relevance to whether the Tree Preservation Order is expedient or not. Mr. Conway expressed grave concerns that he would constantly face the risk of prosecution if he or any of his staff pruned trees to provide clearance or in the order of normal maintenance practises without having previously applied, for permission of the works two months earlier. What the Council fails to understand is that within any typical garden maintenance department many operations are decided on a day to day basis based on the weather. Planning day to day works does not occur two months in advance. Placing a gardens maintenance manager under these sorts of pressures when there is no evidence that the previous works they had been undertaking have been deleterious to the character of the Estate or the health of the trees is inappropriate.
- 3.4 In terms of the risk of the staff undertaking inappropriate works or felling trees it should be clarified that the staff on the site do not possess chainsaw licenses. Therefore they are limited to hand tools and have to source in tree surgeons for any major works. This has cost implications that have to be cleared by management and justified. Felling trees on a whim is therefore not a risk.
- 3.5 When H. R. Wallingford Limited employed Broad Oak Tree Consultants to advise on arboricultural issues in relation to various aspects of the sites' trees this had cost implications that they could have avoided. If the company had been intend on damaging their tree stock they could have readily undertaken extensive felling prior to any planning application being submitted. The fact that they chose not to and employed professional arboricultural advisors reiterates the point that at all levels the tree stock is being appropriately managed. Under the Blue Book assessment it would therefore not be expedient to place a Tree Preservation Order given the existing regime of management in place.
- 3.6 The Blue Book also refers to expedience in relation to the risk of trees being felled or inappropriately pruned. As indicated above the garden maintenance team do not have the equipment or training to fell large trees without expensive outside contractors. Also the company has had many years in which they could have felled trees to benefit future proposals but have chosen not to. This is not a case of a new developer buying a site and looking at removing trees to simplify planning, which is when it is normally expedient to place a Tree Preservation Order, this is a long established relationship with the site where no significant change in circumstances has occurred. The Council have provided no evidence to back any claims that it would be expedient to place a Tree Preservation Order on the grounds of the risk of trees being removed unnecessarily.

4. SUITABILITY OF TREES ON HEALTH GROUNDS

4.1 In making a tree the subject of a Tree Preservation Order it is essential that the Council identify whether the tree is in an appropriate structural condition and good health to be worthy of retention and to avoid preserving trees that are potentially dangerous. Inspection of trees included in the Tree Preservation Order has highlighted specific cases where these inspections do not appear to have been carried out, resulting in inappropriate inclusion of certain trees. Examples of these are as follows:

- **T76 Poplars:** A large four stemmed tree with weak compression unions and failed cable ties at risk of partial/total collapse and requiring major corrective surgery if it is to be retained in any form.
- **T78 Norway Maple:** Extensive squirrel damage throughout canopy that will lead to crown failure.
- **G2:** Contains BS category R tulip trees with extensive basal mower damage.
- **G5:** Includes dying plums and those with weak unions.
- **G6:** Includes a horse chestnut with a large decaying tear wound in the main stem and a decaying Indian bean tree.
- **G14:** Includes three trees with weak compression joins and a high risk of stem failures.
- **G23:** The majority of the trees have extensive old squirrel damage with advanced crown dieback and a high risk of crown failures.
- **W1:** Contains numerous dead/dying small riverside trees that will require removal.
- **W5:** Many of the trees are dead/dying or potentially dangerous.

5. APPROPRIATE USE OF GROUP/WOODLAND CLASSIFICATIONS

5.1 The Tree Preservation Order plan produced by the Council indicates many inconsistencies in the way in which group and woodland classifications have been applied.

5.2 Running parallel to one another G1 and W1 are very similar in structure with nothing to indicate why W1 was not treated as a group. The making of a woodland classification places a much more onerous management burden on the maintenance team as any regeneration is automatically covered as are all of the poor quality water's edge trees which need addressing to avoid affecting the functioning of the river. W1 should therefore be more suited as a group classification.

5.3 G11 has much more of a woodland structure to it than W2, which should be a group classification. No distinction is made as to why each woodland classification is justified, rather than being classed as a group which only includes the better quality trees.

6. CONCLUSIONS.

6.1 The need for placing a Tree Preservation Order has not been proven by the Council given that the site is being well managed by its own staff and bought in specialist advisors. The site has a long history of being maintained by H.R. Wallingford Limited with no wholesale removal of trees occurring. Despite the company having had numerous opportunities in the past to remove trees, if they so wished, to simplify future development they have shown restraint and instead taken specialist advice. This is not a normal situation of a potential developer on a well treed site where Tree Preservation Orders would traditionally be used and there has been no clear justification for either the original Area Order or the latest modified version.

- 6.2 The Council have not adhered to the key criteria required by published government advice for the selection of trees for inclusion in the Tree Preservation Order and have not provided any detailed rationale as to how trees, groups and woodlands were selected as being suitable for inclusion in a Tree Preservation Order.
- 6.2 The imposition of the Tree Preservation Order places an additional financial burden on the company and also restricts the normal day to day management of the site with added pressures placed on maintenance staff that are unnecessary and inappropriate.
- 6.3 This Tree Preservation Order is ill conceived with no proper justification for its placing and as such its placing is strongly objected.

Tim Laddiman
Chartered Arboriculturist
Broad Oak Tree Consultants Ltd.