

TREE PRESERVATION ORDER AT OAK TREE COTTAGE, WELLINGTON HEATH, LEDBURY

Ward: Hope End

Grid Ref: 71313, 40718

Local Member: Councillor R. Stockton

1. Purpose

- 1.1 To consider representations made in relation to a Tree Preservation Order for land at Oak Tree Cottage, Wellington Heath, Ledbury and to determine whether to confirm the Order.

2. Order Description and Details

- 2.1 Minute 24, Northern Area Planning Sub-committee, 16th June 2004 resolved that a Tree Preservation Order be placed on two trees at Oak Tree Cottage, Wellington Heath. At the same time planning permission was granted for the demolition of Oak Tree Cottage and its replacement by three new dwellings. A condition was attached requiring measures to be taken to protect the trees, in particular those which are to be protected by the TPO.
- 2.2 The trees involved are a wild service tree (erroneously called wayfarer tree in the committee report) and an ash tree. They are both located on the Horse Road frontage of the development site.
- 2.3 The County of Herefordshire District Council – (Oak Tree Cottage, Wellington Heath, Ledbury, Herefordshire) Tree Preservation Order 2004 – No 510 was made on 17th June 2004, and served upon relevant parties.
- 2.4 The process of placing a Tree Preservation Order on trees has two stages. Firstly a Provisional Order is made. It then has to be confirmed after a period during which representations can be made.

3. Policies

- 3.1 Malvern Hills District Local Plan Landscape Policy 10 states: -

“Where necessary and appropriate the district council will use tree preservation orders to protect trees and woodlands. When considering the value of trees their visual importance in the landscape, their condition, and their contribution to nature conservation will form part of the assessment.”

4. Representations

- 4.1 A letter of support for the TPO has been received from Mr F. A. Eacock of 6 The Swallow, Wellington Heath, in which he states that he especially supports the order on the large ash tree.
- 4.2 A letter has been received from G. E. Aldrich of Jerpoint, 4 The Swallow, Wellington Heath expressing concern over the future safety of the ash tree if it is not lopped. The writer considers it could be a danger to the bungalows opposite.

- 4.3 A letter of objection has been received from Miton Ltd., the developers of the site. The grounds of objection relate to the ash tree which they consider “*contributes nothing to the amenity and setting of the Wellington Heath area, that it is completely unrepresentative of a specimen ash tree, and most importantly it is a safety risk to residents living opposite*”. They have no objection to the protection of the wild service tree.
- 4.4 In a further letter Miton Ltd. indicate their belief that the planning permission takes precedent over the TPO. They point to the fact that the planning permission granted on 16th June clearly showed the ash tree was not to be retained as it prevents the formation of the new entrance and roads to service the three bungalows. More importantly they advise that a tree specialist has inspected the ash and found fungal decay at the base together with black decay oozing through the bark up to one metre above ground level. Additionally there is evidence of thickening (elephants ear) in the main trunks below heavy lateral branches indicating significant stress on the trunk.

5. Officer appraisal

- 5.1 Both the ash and wild service trees were assessed under the Council’s amenity evaluation rating scheme for Tree Preservation Orders which is presently being piloted. They are of medium size and have average form; being on the roadside they are visible to the public; they are fairly suitable to the site and have some potential to increase further in amenity value. However, the influence of the trees within the wider setting is only slight and there are other trees in the vicinity that provide tree cover. The life expectancy at the time of the survey was assessed at between 15 and 40 years. Under this the two trees scored sufficiently to meet the benchmark rating and hence have a level of public amenity value for a Tree Preservation Order to be placed upon them.
- 5.2 In relation to whether or not the one tree is ‘representative of a specimen’ ash, this is only one factor within the amenity assessment. Hence of itself, this is insufficient for not confirming a TPO upon it.
- 5.3 A meeting on site with the developer concluded that it was not possible to implement the planning permission and retain the ash tree. Alternative access arrangements were investigated including whether less damaging road construction techniques could be utilised.
- 5.4 The issue relating to the safety of the ash tree is, however, of greater concern. The original inspection by the Council’s Arboricultural Consultant was carried out from the highway. At that time the site was extremely overgrown and it was difficult to gain access to the ash. The site has since been cleared of most vegetation and this has enabled a more detailed survey of the trees to be undertaken.
- 5.5 It is now evident that fruiting bodies of *Pholiota squarrosa* can be identified at the base of the ash tree. Although information on the type of decay this fungi causes on ash is not well documented, it is reported to cause root and butt rot. Given the location and type of both the fungi and the exudation, (“black decay oozing from the bark” as stated by Miton Ltd,) it is probable that the above are related. However, further costly investigation would need to be undertaken to substantiate such a conclusion.
- 5.6 The reactive thickening below the main union at 1m but mainly at 4m on the northern co-dominant stem is where the tree is reacting to mechanical and physiological

stresses of a weak bark included union by re-enforcing the weak area. This reactive growth has created the “elephants ear” effect. Given the location of the weak union, major branch failure is highly probable.

- 5.7 Although crown reduction work could reduce the effects of the above defects it is considered that such work would need to be relatively heavy. The heavy work would be detrimental to the visual amenity of the tree to the extent that its removal and replacement would be the best course of action.
- 5.8 Government guidance on making and confirming Tree Preservation Orders states that *“In the Secretary of State’s view, it would be inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.”*¹
- 5.9 Accordingly the measured opinion from the Council’s Arboricultural Consultant now points to the poor condition and potential safety hazard of the ash tree and the need, in a residential area, to fell it.
- 5.9 A landscape scheme has still to be agreed for the development and this will provide the opportunity to replace the ash with one or more trees suitable to the site.
- 5.10 The condition of the wild service tree appears to be good.

RECOMMENDATIONS

THAT:

- (a) **the Tree Preservation Order no. 510 be confirmed with modification to remove reference to the ash tree.**