

BHH – Local Area Committee 22nd September 2022

Application Number: T/22/93274
Case Officer: Tree Officer
Received Date: 21/06/2022
Site Address: GREYWELL, HIGH STREET, BURSLEDON,
SOUTHAMPTON, SO31 8DL
Applicant: c/o Agent
Proposal: 1 no. oak (T1) – Fell.
1 no. sycamore (T2) – Fell.
1 no. beech (T3) – Fell.
1 no. sycamore (T4) – Fell.
Structural damage to the wall is the reason for these 4 trees
to be removed. Replacement planting with 8 no. small
leaved lime.

Recommendation:

PERMIT, subject to conditions.

CONDITIONS AND REASONS:

- 1) The tree works hereby consented shall be completed within 2 years of the date of this permission and shall be carried out in accordance with the approved details and to British Standard for Tree Work BS3998:2010. Reason: To safeguard the health and amenity of the trees.
- 2) Replacement tree planting must take place as soon as possible after the tree removal and no later than the end of the following planting season (October - March). The replacement trees shall be small-leaved lime and be of a minimum of 10-12 cm girth, as per the arboricultural report reference "211433-Let 2-Update". Planting must be in accordance with BS:8545. Reason: To conserve the character of the locality.
- 3) For a period of no less than 10 years after planting, trees which are removed, die or become seriously damaged shall be replaced as soon as is reasonably practicable with others of the same species, size and number as originally approved. Reason: To conserve the character of the locality.

Note to Applicant: It is considered that, subject to compliance with the conditions attached to this permission, the proposed tree works are acceptable because their removal is required to preserve the character of the Conservation Area, and are in accordance with the policies and proposals of the development plan and after due regard to all other

relevant material considerations the local planning authority is of the opinion that permission should be granted.

Note to applicant: All works hereby consented should be carried out by a suitably qualified and insured tree surgeon. A copy of the decision notice should be given to the Tree Surgeon.

Note to applicant: Please be advised that the Wildlife and Countryside Act 1981 as amended, the Countryside and Rights of Way Act 2000 and the Conservation (Natural Habitats) Regulations 1994 protect ALL wild birds, their nests (whether in use or being built) and eggs and other wild animals including bats and their roosts in or adjacent to trees.

Note to applicant: The granting of consent does not give the applicant or their agent a legal right to enter land without the owner's permission.

Note to applicant: Advice regarding overhead utilities should be sought with the relevant service provider prior to commencing works.

Note to applicant: Please follow current recommended Bio-security measures - Further advice can be found at <https://www.trees.org.uk/News-Blog/News/Biosecurity-in-Arbiculture-and-Urban-Forestry-Po>

Report:

1. This application has been referred to Committee due to receipt of 12 objections and the level of public interest.

Description of application:

2. Proposal:
 - 1 no. oak (T1) – Fell.
 - 1 no. sycamore (T2) – Fell.
 - 1 no. beech (T3) – Fell.
 - 1 no. sycamore (T4) – Fell.
3. Structural damage to the wall is the reason for these 4 trees to be removed. Replacement planting with 8 no. small leaved lime (10-12cm girth).

Trees

4. The subject trees are protected under area Tree Preservation Order 175-H.
5. All 4 trees are located to the front of the property, behind a brick wall adjacent to the highway of Station Hill. T1 is probably the most

dominant tree (and potentially oldest) out of the 4 subject trees. T2 is also a very large specimen, which appears to be a lapsed pollard. T3 and T4 are still prominent, but they are smaller than T1 and T2 and set further away from the busier public realm of the High Street.

6. Given the size and location of the trees relative to the public realm, the trees all provide high levels of visual amenity.

Site Characteristics and Character of the Locality

7. The site is in the northeast of the Old Bursledon Conservation Area. The building contained within the site is listed Grade II, with the wall included. The Conservation Officer states that it is a notable feature of the Conservation Area and its replacement will enhance the wider setting.

Relevant Planning History:

8. The only TPO application relating to these trees – T/21/92159 – was refused in March 2022. The application proposed the removal of T1 and T2 (as listed in this application). It was refused because of lack of evidence of any arboricultural issue (*i.e.* justification was not provided as per section 16(1)(c)(iii) of the TPO Regulations) and because the application did not contain expert opinion from an appropriately qualified structural engineer.
9. There is a current application – H/22/93352 – and an associated Listed Building Consent – L/22/93401 – for Construction of garage with ancillary first floor accommodation, rebuilding of brick boundary wall and new internal courtyard wall.
10. Of particular importance is the proposal under H/22/93352 for “rebuilding of brick boundary wall” as that would require the removal of the 4 subject trees. Planning consent for H/22/93352 would supersede any TPO refusal, as per The Town and Country Planning (Tree Preservation) (England) Regulations 2012, section 14(1)(a)(vii).

Representations Received:

11. Thirteen representations were received in total, including 12 of objection and 1 in support. No comments were received from the Parish Council.
12. The supporting comment related to the importance of the wall (*i.e.* the wall should take precedence over the trees) in the wider setting of the Conservation Area. The comment was noted.
13. The objections received can be grouped into the following concerns. A response to these matters is provided under each issue:

- **The wall can be rebuilt without removing the trees or that the wall is relatively short in places and does not need rebuilding.**
 - It is beyond our remit to comment on other options potentially possible, other than to say that the applicant has provided the necessary evidence from an appropriate expert demonstrating that the wall cannot be rebuilt with the trees *in situ*.
- **The wall could be replaced by a fence/hedge or similar; or does not merit protection (i.e. the trees should take precedence over the wall).**
 - It is beyond our remit to determine whether the wall or trees should take priority where a structure is a part of a listed building or an important feature in a Conservation Area. Our role is to assess the application put to us, including any justification, and within the appropriate laws and guidance.
- **The trees are an important feature of the Conservation Area.**
 - The trees do provide high levels of public visual amenity.
- **Large trees are essential in the climate and environmental emergency and should thus take precedence over the wall.**
 - Large trees are critical for climate change adaption and mitigation.
- **The oak (1) is a notable tree with special characteristics.**
 - We noted the rare stem structure of the tree, but the Tree Preservation Order Regulations do not, unfortunately, take such matters into account.
- **The trees are not diseased or dangerous.**
 - This was not a principal reason put forward for the trees' removal.

Assessment of Proposal: Development Plan and / or Legislative Background:

14. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states: "If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

Impact of proposed works on amenity:

15. As the proposal is to remove all 4 trees and, given their high levels of visual amenity, the proposal would give rise to considerable harm to the character and appearance of the area in the short to medium term. With the replacement planting, the amenity can be recovered in the long terms and, potentially, enhanced.

Justification for the proposed work:

16. Applicants should support claims that trees are damaging lighter structures and surfaces, such as boundary walls, by providing technical evidence from an appropriate expert.
17. This application contains evidence from an arboricultural expert and a structural engineer. We do not have expertise in structural engineering, but the argument put to us by both experts is convincing and, given the location of the trees and the amount of wall displacement due to secondary stem and root growth, it is obvious that it would be all but impossible to rebuild the wall with the trees *in situ*.
18. Given the wall's inclusion in the Listed Building status and the Conservation Area, and given the comments by the Conservation Officer, alternative boundary treatments are beyond the remit of this report. We have provided the recommendation based on the assumption that the wall is to be rebuilt like-for-like.

Other material considerations:

Equalities Implications:

19. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-
 - A public authority must, in the exercise of its functions, have due regard to the need to:
 - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
20. When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any equality implications.

21. It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and legislative background.

Conclusion:

22. It is with regret that we recommend the removal of these trees. The applicant has demonstrated that a like-for-like wall cannot be rebuilt with the trees present, and the preservation of the wall is given a greater weight in the decision-making process because of its inclusion in both the curtilage of a Grade II listed building and the Conservation Area.

SITE PLAN



Approximate location of 4no. TPO trees shown by green polygon.