

REPORT OF HEAD OF PLANNING SPORT AND GREEN SPACES

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

REF: 62734/TRE/2013/5: APPLICATION TO FELL OAK (T1) ON TREE PRESERVATION ORDER NUMBER 510 (TPO 510) ON LAND AT, AND BETWEEN, 34 WARRENDER WAY AND 38 COLLEGE DRIVE, RUISLIP



1.0 Summary

The applicant, Mr Dennis Hall, has submitted an application to fell the Oak T1 on TPO 510. The application has been supported by a petition (signed by 30 neighbours) and must, therefore, be decided by Committee.

2.0 Recommendation

The application (Ref: 62734/TRE/2013/5) to fell Oak T1 on TPO 510 should be refused for the following reasons (summarised):

The Oak T1 is a fine, healthy, medium-sized tree which has a high amenity value and contributes to the biodiversity potential and visual amenity of the local area.

No evidence has been provided to show that the tree is dangerous; it would be possible to employ a gardener to clear acorns from the garden; and no relevant information has been provided to demonstrate how or why the tree violates human rights.

The reasons given for wishing to fell Oak T1 do not outweigh the high amenity value of the tree. Therefore, there is inadequate justification for the tree to be felled.

3.0 Information / Background

3.1 This application concerns a mature Oak tree situated on, what appears to be a small strip of land, situated between the rear gardens of 38 College Drive and 34 Warrender Way. Part of the Oak's trunk is situated within the rear garden of 38 College Drive. The Oak is protected by TPO 510.

3.2 TPO 510 was made on 16th June 1992 because there was reason to believe that felling or tree work was intended. The Council provided notification of the making of this TPO to those having an interest in the land on 16th June 1992.

Further to this letter, the applicant (Mr Hall) wrote to the Council on the 5th July 1992 to object to the making of the TPO, on the basis that tree could cause damage to his property due to the clay sub-soil.

3.3 Mr Hall's objections were considered by the Environment Sub Committee for Ruislip / Northwood on 15th October 1992. In accordance with Officer Recommendation and having regard to the objection received by Mr Hall, the Sub Committee resolved to confirm the Order.

3.4 TPO 510 was formally confirmed on 10th December 1992.

3.5 On 11th May 1993, the Council refused to grant consent for an application (13937/A/93/0456), made by Mr Hall, to prune the lower part of Oak (T1).

3.6 On 12th April 1996, the Council granted consent for an application (13937/B/96/0263), made by Mr Hall, to crown thin Oak (T1) by 25%.

3.7 On 23rd May 2003, the Council refused to grant consent for an application (57865/TRE/2002/117), made by Mr Hall, to prune Oak (T1). The Council refused to grant consent for this works because *'a height and side reduction will have a detrimental effect on the health and amenity value of Oak T1'*.

3.8 On 19th October 2004, the Council granted consent for an application (13937/TRE/2004/55), made by a third party (Ellipta – on behalf of the insurers of 42 College Drive, Ruislip), to thin the crown of Oak (T1) by 30%.

3.9 On 15th July 2005, the Council refused to grant consent for an application (13937/TRE/2005/32), made by Mr Hall, to fell Oak (T1). The application was refused because *'the tree has a high amenity value and contributed to the visual amenity and character of the area in which it is situated. Its loss would be detrimental to the visual amenity and character of the locality'*.

3.9.1 As a result of this refusal, an appeal (Ref: LDN31/R5510/11/1) was lodged to the Secretary of State.

3.9.2 On 12th December 2005, the First Secretary of State dismissed the appeal and concluded that *'the reasons put forward in support of felling do not outweigh the amenity value of the appeal tree and that its removal is not justified'*. Within that decision letter, there contained a recommendation, by

the appointed inspector, that Mr Hall may consider submitting an application to reduce the crown of the tree.

3.10 On 17th May 2007, the Council granted consent for an application (62734/TRE/2007/15), made by Mr Hall, to reduce the sides of the crown of Oak (T1) by 2m.

3.11 On 17th March 2008, the Council refused to grant consent for an application (13937/TRE/2007/29), made by Mr Hall, to fell the tree, because *'The Oak (T1) on Tree Preservation Order number 510 has a high amenity value and contributes highly to the visual amenity and character of the area in which it is situated. The felling is not justified, and the loss of T1 would be detrimental to the visual amenity and character of the locality.'*

3.12 On 15th August 2011, the Council granted consent for an application (62734/TRE/2011/62), made by Mr Hall, to cut back branches from Oak (T1) that were overhanging his property by up to 2m.

4.0 Amenity

4.1 The Oak is about 13-14m tall and stands about 23m north-north-west of the bungalow. The majority of the crown can be seen above and between the applicant's and the close neighbouring properties. The crown is also visible from several vantage points around College Drive; and parts of the tree can be glimpsed from Warrender Way, Hawtrey Drive, and the top of High Grove Way.

4.2 The Oak (T1) is a fine, medium-sized tree, with a safe useful life expectancy of at least 40 years. The tree has not been crown reduced in the past and, as a result, has developed an attractive, low-spreading, domed crown typical of the species.

4.3 English Oaks significantly contribute to local biodiversity, acting as host to a wide range of invertebrates. The tree contributes to the biodiversity potential, visual amenity and landscape quality of the area, and that such amenity would be degraded if the tree were to be removed. The tree has a high amenity value.

4.4 The tree is close to maturity and will grow larger in size over the next 20-40 years, which will increase its amenity value. If shown to be necessary, there may be scope in the future to limit the size of the tree by minor pruning.

5.0 Reasons (summarised) put forward by Mr Hall for wishing to fell the Oak (T1), and observations on them.

5.1 The Oak is dangerous.

At the time of the inspection, there was no evidence of any significant defects or disease, and the opinion was formed that it is in good condition, of good form, of early maturity with considerable long-term potential for future growth.

Part of the tree's crown overhangs a hard (paved) area to the east of the rear garden shed, but very little of the crown overhangs the rear lawn. The Council consider the juxtaposition of the Oak tree and bungalow to be good and sustainable.

Mr Hall has not indicated in section 8.1 of the application form that there are fears that the tree is diseased, or that it might break or fall, and furthermore no technical evidence has been provided to support the contention that the tree is dangerous (in cases such as this, there is a requirement to provide written arboricultural advice or other diagnostic information from an appropriate expert).

5.2 Several large branches have fallen onto our property.

At the time of inspection, there were several large dead branches within the Oak's crown (consent is not required by the Council to remove dead or dangerous branches). If not removed, these branches will, at some point, fall from the tree, and it is likely that dead branches may have fallen from the tree in the past. However, it was not evident at the time of the inspection that any healthy branches have fallen from the tree or failed. Furthermore, there were no defects (visible from ground level) within the tree, and there did not appear to be any healthy branches that could fail in the near future.

The inspector assigned to Mr Hall's previous appeal stated that '*the risk of a falling branch impacting a person is very low due to the location of the tree*'. To reduce this low risk even further, it would be prudent to have the tree inspected by an appropriate expert on a regular basis.

5.3 Unable to cope with the thousands of acorns, which are themselves dangerous when walking in the garden and unable to handle the dozens of bags required for the disposal of acorns and leaves.

The tree has the potential to grow considerably larger, and it is appreciated that it may require occasional surgery to contain its size. This will involve some expense; however the removal of leaves and acorns is an inevitable part of the on-going seasonal maintenance of a property / garden in an area populated by trees (such as Ruislip).

If Mr Hall is unable to carry out this property maintenance, then it would be possible to employ a gardener to remove the leaves and acorns from the rear garden (the Council collects Green Waste from the front of properties).

Although the tree is the source of some inconvenience and may require some periodic maintenance, the Council do not consider these reasons to be sufficient to outweigh its considerable importance in contributing to the treescape, biodiversity and visual amenity of the locality.

5.4 Tree has caused considerable stress over past 20 years and is affecting the use and enjoyment of our property, which is denying our human rights

The Oak is situated to the north-north-west of the bungalow and therefore cannot cast any significant shade on the bungalow or the garden. In fact, the rear lawn is likely to be in direct sunlight for much of the day. It cannot therefore be seen how the tree detracts from the reasonable enjoyment / use of the property.

This issue was addressed by the Government inspector dealing with the appeal, made by Mr Hall, during 2005. A quote from the inspector's report is provided below:

'The first secretary of State notes your concerns about your rights under Article 8 of the European Convention for Human Rights (the right to respect for private and family life). The High Court in R (on the application of Brennan) v Bromsgrove District Council has ruled that the Tree Preservation Order system strikes an appropriate balance between the general interests of the community and the private rights and interests of the individual citizen. The Secretary of State is therefore satisfied that the Tree Preservation Order in this case does not violate your human rights.'

Mr Hall has not provided any new information or evidence to demonstrate how or why this Oak violates his human rights.

6.0 Residents consulted and consideration of objections to proposal

6.1 Residents at 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44 & 46 Warrender Way; 32, 34, 36, 40, 42, 44, 46, 48 & 50 College Drive; and Kings College Cambridge were consulted.

6.2 Two residents objected to the application for the following reasons:

6.2.1 *'This is a beautiful natural British tree of some age. It supports a lot of wildlife. I would much rather see it pruned severely or pollarded. If lost, it will be lost forever.'*

6.2.2 *'I have changed my mind regarding having the tree felled. Rather than have it felled I would have no objection to having it pruned.'*

6.3 Two residents supported the application for the following reasons:

6.3.1 *'I would support this application subject to the applicant: 1. paying for the felling and removal of the tree; 2. ensuring that the works do not cause damage; 3. ensuring that the boundary fence is replaced (at the applicant's expense) to ensure enduring security and privacy between the two affected properties (the tree removal would open up the boundary between the two properties).'*

6.3.2 *'We would strongly support Mr Hall's application. Over the last 20 years that we have lived in this property, the Oak has grown enormously and now extends extensively over our garden. Apart from the numerous bags of leaves that have to be collected in the autumn, we have fluff like flowers in the spring and a large number of acorns in the summer. Acorns can be quite painful if you happen to be hit on the head and, owing to the quantity, slippery under foot. Droppings from the birds that nest in the tree create quite a mess and have damaged the roof of our summerhouse, which was erected before the tree spread, and there is damage to the foundations as well. From time to time we also have small branches fall into our garden. A few years ago, we had to have an extension to our house underpinned and it was suggested that the Oak tree was at least partly to blame for taking up so much moisture from our ground.'*

6.4 Many of the points raised by those supporting the application have been addressed in the main body of the report. However, to cover the remaining points, see below:

6.4.1 No explanation has been provided to explain how bird droppings have damaged the roof of a summerhouse. Bird droppings may be an occasional inconvenience; however they do not outweigh the high amenity value of this Oak tree.

6.4.2 No evidence has been provided to support the contention that a summerhouse has been damaged by the Oak. In fact, the underpinning of the structure will prevent any damage occurring in the future.

7.0 Conclusions

After due consideration of all of the reasons that Mr Hall has provided in support of this application, and given the high amenity value of the tree, it is considered that there is inadequate justification for the tree to be felled and therefore it is recommended that the application to fell Oak (T1) be refused.

Furthermore, Mr Hall has not provided details of a replacement tree, nor provided reasons for not wanting to replant; as is the requirement in part 7 of the application form.

8.0 Reference Documents

8.1 The following background documents were used in the preparation of this report:

- Tree Preservation Order No. 510 (1992)
- Appeal Document (LDN31/R5510/11/1)
- Photographs of the Oak (T1) taken from various locations
- Tree Preservation Orders – A guide to the Law and Good Practice.

9.0 Contact Officer/s:

Trevor Heaps / Stuart Hunt **Tel. no.** 01895 250230



Notes

 Site boundary

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Site Address

**38 College Drive
Ruislip**

Planning Application Ref:

62734/TRE/2013/5

Planning Committee

North

Scale

1:1,250

Date

**February
2013**

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