

TONBRIDGE & MALLING BOROUGH COUNCIL

AREA 3 PLANNING COMMITTEE

3 February 2011

Legal Services Partnership Manager

Part 1- Public

Delegated

1 TREE PRESERVATION ORDER NO 16 2010

1.1 Background

1.1.1 On instructions received from the Director of Planning Transport and Leisure, a Tree Preservation Order (No 16 2010) was made on a Blue Cedar tree at 8 Holtwood Avenue Aylesford.

1.1.2 This Order is a renewal of an Order originally made on this site on 20 May 2010 (No 11 2010) and is the subject of an objection from the owners and their objection, together with comments of the appropriate officers, are set out in part 1.2 below.

1.1.3 The grounds for making the Order are to protect the tree in the interest of visual amenity as the tree makes a significant contribution to the character of the area.

1.2 Objection received from Mrs G Walker

1.2.1 I wish to object to the Tree Preservation Order placed on the Blue Atlas Cedar in my garden as the Council's reason for making the Order (in the interest of visual amenity) is totally unfounded.

1.2.2 I wish to fell the tree and my reasons for this are size, serious health issues, blocking drains and a pond.

1.2.3 I have researched the question of visual amenity and my findings are :

1.2.4 From the London Road - no visibility at all.

1.2.5 As you enter Woodland Road from the London Road until you meet Holtwood Avenue – no visibility at all.

1.2.6 Only if you are on foot walking along Holtwood Avenue towards Brassey Drive at number 6 Holtwood Avenue between the house and a conifer in that garden that is the only point in the entire area that the tree can be seen from top to bottom. The gap is approximately 20 feet. If you are in a car it would be too dangerous to

glance to your right. Residents in front of my house can only see less than 10 feet of the top of the tree.

- 1.2.7 From my house along Holtwood Avenue turning into Brassey Drive all the way to the Georgian house which backs onto my back garden - no visibility at all.
- 1.2.8 There is a possible 5 ft. gap at this house where you can see if on foot the very top of the tree possibly 6 to 7 ft. clearly of interest to no one.
- 1.2.9 To complete the circle back to the London Road - no visibility at all.
- 1.2.10 I knocked on several doors on my trip to inquire if residents were aware of the Blue Atlas Cedar in Holtwood Avenue but not surprisingly, apart from the few houses near to me who can see the top nobody knew about it
- 1.2.11 I refute the statement that the tree is of any visual amenity to the character of the area because it cannot be seen generally and the impact is so minimal it should be discounted.
- 1.2.12 The three main reasons I want to fell the tree are:
- 1.2.13 1. I am 71 years old and my husband 74. He is in very poor health he has a brain lesion which impairs his mobility and speech, CLL, diabetes, therefore I am a 24/7 support for him. I have back problems and vertigo directly attributed to work on the tree. My doctor will confirm.
- 1.2.14 2. I have a large pond containing quality Koi fish, this year alone the system has been blocked twice by the tree particles (the tree is laden with cones, each cone splits into in excess of 100 pieces). The blockage requires professional assistance which is expensive. Nevertheless, this help is essential as the pond will overflow. I now have to remove the drain cover on a weekly basis to clear the valves to try to avert drain blockage etc. which has occurred previously.
- 1.2.15 2. I am a member of the RHS and have discussed the tree in question on a number of occasions with the plant advisers at Wisley. The Blue Atlas Cedar is not a suitable tree for a residential garden. Parkland and woodland should be their natural habitat, The debris from the tree is enormous and is now creating more work that I can cope with. I am a very keen gardener but due to responsibilities my time is limited.

1.3 The Director of Planning and Transportation's response to the correspondence from Mrs Walker is as follows :

- 1.3.1 With regard to Mrs Walker's objection on grounds that the tree cannot easily be seen in the area, I have the following comments:
- 1.3.2 The tree contributes to the sylvan character of the Conservation Area. From the public highway in Holtwood Avenue, it can be seen from the front of the house and through the gap between the houses at 6 and 8 Holtwood Avenue.

Collectively the trees in Holtwood Avenue make an important contribution to the character of the road and to the notably sylvan character of the Conservation Area generally. Many tree tops in the vicinity can be seen above the line of the roof tops softening the development. Being an evergreen species, its importance is likely to be much greater in winter months when other, deciduous, trees lose their leaves. Although the primary consideration in serving the tree preservation order is the contribution a tree makes to public amenity, it is also worth noting that the tree can be seen from a number of surrounding properties and this also makes a contribution to the character of the area overall.

- 1.3.3 Removal of the cedar would be a detrimental erosion of this character.
- 1.3.4 No objection has been raised in the past when proposals have been put forward for the removal or coppicing of other trees in this garden, but this is considered to be a particularly good specimen.
- 1.3.5 Whilst I am very sympathetic to the health problems both Mr and Mrs Walker suffer, this cannot be grounds alone for the removal of the protected tree. There is no guarantee that the owners might not choose to move in the future, and the wider longer term public interest, in terms of the contribution that the tree makes to visual amenity, has also to be considered.
- 1.3.6 I understand that the owners do have a gardener who assists with the maintenance of the garden and readily recognise that the owner keeps her garden to a very high standard. I also appreciate that the mess created by the tree as a result of falling needles and cone parts can be problematic. However, this is not an unusual issue for all properties with mature trees surrounding them and others are clearly prepared to live with this situation to preserve the amenity of their gardens. I believe that there should be a way of managing the problem in relation to the pond without resorting to the removal of the tree.
- 1.3.7 I understand that the owner has consulted the RHS which has advised that a Blue Atlas Cedar is not a suitable tree for a residential garden. However, residents in Holtwood Avenue do have relatively large gardens and I do believe that the tree is far enough away from the house not to cause any direct conflict with the property. The highly treed character of the area is one of the key characteristics of this area, which is a Conservation Area, and is described in the Holtwood Conservation Study, dating from the 1970s, even then, as “a high quality residential area enhanced by its setting in a heavily wooded area on a hillside.”
- 1.3.8 I believe this tree does contribute to local visual amenity and because of this I would ask Members to confirm the TPO.

1.4 Legal Implications

- 1.4.1 The committee are free to confirm the Order or uphold the objection under the Town and Country Planning (Trees) Regulations 1999

1.5 Financial and Value for Money Considerations

1.5.1 Not applicable

1.6 Risk Assessment

1.6.1 Not applicable

1.7 Equality Impact Assessment

1.7.1 See 'Screening for equality impacts' table at end of report

1.8 Recommendations

1.8.1 Members are asked to either:

1.8.2 (i) Confirm the Tree Preservation Order or

(ii) Uphold the objections to the Order

Background papers:

Legal Services file TPO 840/845

contact: Trevor Bowen
(01732 876039)

Adrian Stanfield

Legal Services Partnership Manager

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	Affects all groups equally
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	See a above
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?	Not applicable	

In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.