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15th March 2019

Our ref: s6 16182-01

Ms Reid,

Ref.: Town and Country Planning Act 1990

The Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Tonbridge & Malling Borough Council Tree Preservation Order No: 19/00001/TPO

OBJECTION under Regulation 6

On behalf of my clients, I write to object formally to the imposition of the above Tree Preservation Order.

The Order covers five groups of trees (G1-G5), which together consist of 102 sycamores, 16 ash, three beech, two hawthorns and one silver birch. The grounds upon which the Council considered that the Order should be made were stated in the Regulation 3 notice as follows: **"The Council considers that the tree or trees contribute to amenity and local landscape character and it is expedient to make a Tree Preservation Order. Collectively the trees provide a sylvan character to the area and screen to a potential development site"**.

This objection is made in respect of all of the groups included within the Order, and in particular for G2 and G3.

The objection is made on the following grounds:

1. There is no evidence that it was expedient to make these trees the subject of an Order. The majority of the trees covered by the TPO (all of G1, G4 and G5 and half of G2) are shown to be retained and protected throughout the proposed development of the disused land to the south. Those trees in G2 and G3 which are considered for removal as part of the development would be replaced by trees of similar mature stature, only 5-10m from the existing tree belt's location. A 25m-long section of G3 will not be replaced, to accommodate the proposed access drive, but this includes only eight trees within the existing tree belt (for context, the TPO covers a total of 124 trees).

Moreover, no trees have been felled recently, and there is no reason to believe that these trees are not under good arboricultural management and will not remain so in the foreseeable future.

2. Although the tree belt forming G2 and G3 overhangs Swan Street and is prominent from the adjacent footway, creating a "sylvan character", it is very narrow (only a single tree wide at most points) and consists almost exclusively of multi-stemmed and heavily ivy-covered sycamores. Individually these trees are of low quality, and many show tight compressions forks with evidence of included bark and/or bark stripping for up to 1.5m, with limited woundwood growth. Moreover, most trees forming G2 and G3 are growing at the top edge of a steep bank, which becomes nearly vertical along G3; here, the soil is exposed with little or no ground cover, and there are numerous exposed surface roots consistent with bank erosion despite the presence of the trees.

Therefore, stem, branch and even entire tree failures might be expected in the future, with a consequent risk of harm occurring to vehicles and pedestrians using the road. Ongoing management will be required, irrespective of whether the site is developed, and in the absence of any previous management it is difficult to suggest any effective remedial works other than removal and replacement.

The proposed development provides an opportunity to secure a higher standard of replacement planting, which might be harder to ensure if the trees were removed on another occasion for purely tree management and safety reasons. Replacement

planting could incorporate tree species of higher quality, ecological value and, over time, a more sylvan character than the existing tree belt provides. It would also allow a greater species mix, reflecting the higher diversity found to the north of Swan Street.

3. The sylvan character of Swan Street is relatively new. Historical maps show no indication that the site used to be bordered by trees, and the specimens within G2 and G3 are consistent with being self-seeded specimens that have grown up within a former hedgerow, maintenance of which was ceased some time ago.
4. The second reason given for making the TPO (that the trees "screen ... a potential development site") is misleading as there will be no development for 100m south of G3, with the exception of the proposed access drive and a SuDS pond. There are two additional belts of sycamore and ash growing south and east of G2 and G3 which will be retained throughout the proposed development. These tree belts contain larger and higher quality specimens than G2 or G3, and would provide effective screening of the whole of the proposed development (with the sole exception of the access drive) even if no replacement planting was proposed.
5. One of the ash included within G3 (tree no. 224 on the tree protection plan no. 16182-02a submitted with the planning application) was assessed as category 'U', showing an extremely sparse crown and substantial decay in both stems. Its short-term potential, hazardous structure and location make it inappropriate for inclusion in a TPO.
6. There are technical discrepancies within the TPO group descriptions and map which make it difficult to identify protected trees with confidence, and therefore limit the utility of the TPO document. Specifically:
 - a. The list of individual trees comprising G1 (23 sycamores and two hawthorns) does not match our observations on site for the area covered by G1 (as drawn on the TPO map); we found several ash and a large silver birch not mentioned in the TPO, and fewer than 23 sycamores.
 - b. The list of individual trees comprising G2 (43 sycamores, 6 ash and 1 silver birch) does not match our observations on site for the area covered by G2 (as

drawn on the TPO map); we found only three ash and no silver birch in this area.

- c. It is unclear from the TPO map whether the copper beech and adjacent common beech growing south of the tree belt along Swan Street are included in G3. Whether or not these two trees are included in this group, the group's species list does not match our observations on site.

As such, the imposition of a Tree Preservation Order on these three specimens does not comply with government guidelines on the expediency of making TPOs as laid down in the Town and Country Planning Act 1990, The Town and Country Planning (Tree Preservation) (England) Regulations 2012 and current Planning Practice Guidance, and no reasonable degree of public benefit will accrue from this Tree Preservation Order.

I thus respectfully ask that this Tree Preservation Order is not confirmed.

Yours sincerely,

Jeff Mashburn

SIMON JONES ASSOCIATES



Appendix: Guidance on the making of Tree Preservation Orders

Section 198 (1) of the Town and Country Planning Act 1990 states:

“If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.”

Planning Practice Guidance on Tree Preservation Orders and trees in conservation areas states (paragraph 005):

“Authorities can either initiate this process themselves or in response to a request made by any other party. When deciding whether an Order is appropriate, authorities are advised to take into consideration what ‘amenity’ means in practice, what to take into account when assessing amenity value, what ‘expedient’ means in practice, what trees can be protected and how they can be identified.”

Paragraph 008 of the Planning Practice Guidance, titled “What might a local authority take into account when assessing amenity value?” states:

“When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority’s assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.”