

**Body:** Planning Committee

**Date:** 25<sup>th</sup> April 2006

**Subject:** Tree Preservation Order - Land at 22 Wartling Road, Eastbourne NO. 115 (2005)

**Report Of:** Planning Manager and Legal Services Manager

**Ward(s)** Devonshire

**Purpose** This report seeks confirmation of a Tree Preservation Order.

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**Recommendation:** That The Eastbourne Borough Council Tree Preservation Order (Land at 22 Wartling Road, Eastbourne, East Sussex) No. 115 (2005) be confirmed without modification

## **1. Introduction**

- 1.1 On 1<sup>st</sup> August 2005 the Planning Manager exercised his delegated powers and authorised the making of a tree preservation order in respect of a tree on the above land. The tree is Acer Pseudoplatanus (sycamore).

The Planning Manager took this action because the tree makes an important contribution to the visual amenities of the area and its loss would be detrimental to those amenities.

The Order was made on 16<sup>th</sup> December 2005. A copy of the Order plan is attached.

- 1.2 The Order will continue in force until the expiration of a period of six months from the making of the Order or the date on which the Order is confirmed, whichever first occurs.

## **2. Confirmation Procedure**

The Committee must now decide whether to confirm the Order. The Committee may:

- confirm an Order without modification or subject to such modification as it considers it expedient; or
- decline to confirm the Order, in which case it lapses.

Before making a decision the Committee must take into account any objections or representations made within the prescribed period.

### **3. Consultations**

- 3.1 Copies of the Order and statutory notice have been served on the owners and occupiers of the land and adjoining land.
- 3.2 The following is a summary of the representations and objections received together with the response of officers.

#### **Objection**

From a resident adjoining the property who wished to object about the very large sycamore (Tree T1) because any plants/shrubs that she plants die because of a sticky substance that the tree produces. The tree has ruined the growth of her Horse Chestnut tree and it is now only growing on one side and no longer produces flower spikes or conkers. The tree also sheds paired winged fruits which take root if they are not pulled up. She says that this is very hard to keep on top of. She also states that the tree has not been looked after by its tenants or the Council. She would have no objection to the tree if it were maintained properly.

#### **Officers Response**

The Council's Arboricultural Officer says the sticky substance is a secretion from aphids and is not produced by the tree. This can be washed off plants, but if this is not undertaken it will be a host to mould. The resident's horse chestnut tree is approximately ¼ of the age of the Acer (Tree T1) and as it would have been planted under the canopy it has been permanently suppressed. A landowner has a legal obligation to maintain a tree situated on its land in a safe condition, however a tree owner can not be responsible for wind borne seeds and where they are dispersed to. The tree will be regularly inspected and any works that are necessary in the interest of safety or good arboricultural practice will be scheduled.

#### **Objection**

From another adjoining resident who states the tree overhangs his property. As part of the TPO a clause must be added that the guardian of the tree is responsible for removing any saplings of this prolific spreader that root within 20 metres of his property. Also in the event of the tree being the victim of adverse weather conditions or disease he wishes the guardian to be responsible for its removal and to put right any damage to his property at no cost to himself.

#### **Officers Response**

The Council's Arboricultural Officer says in my opinion the owner of the tree does not have a legal liability to remove any saplings which grow from seeds from that tree. A tree owner can not be responsible for wind borne seeds and where they are dispersed to. It is my further opinion that a clause can not be inserted into the legislation covering Tree Preservation Orders. In the unlikely event of the specimen failing in a high wind event, claims for damages could be submitted but the management regime prior to failure would be taken into consideration.

### **4. Human Resources**

There are none.

**5. Environmental Implications**

The confirmation of the Order will ensure the protection of the trees, which make a significant contribution to the visual amenity of the area.

**6. Human Rights**

Whilst the owners have the right to the peaceful enjoyment of their property, the Council have the right to make the Order to preserve and protect the visual amenity to which the trees make a significant contribution.

**7. Financial Implications**

There are none.

**8. Youth and Anti-Poverty Implications**

There are none.

**9. Conclusion**

The trees make a significant contribution to the visual amenity of the area. We therefore recommend that the Tree Preservation Order be confirmed without modification.

**JEFF COLLARD  
PLANNING MANAGER**

**JEREMY CHAMBERS  
LEGAL SERVICES MANAGER AND MONITORING OFFICER**

**Background Papers:**

The Background Papers used in compiling this report can be found on file PL/2/76