

COMMITTEE REPORT

BY THE EXECUTIVE DIRECTOR OF ECONOMIC GROWTH AND NEIGHBOURHOOD SERVICES
READING BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE: 5 OCTOBER 2022

Ward: Redlands

Proposal: Objection to a Tree Preservation Order

RECOMMENDATION

That the Tree Preservation Order be confirmed.

1. PURPOSE AND SUMMARY OF REPORT

- 1.1 To report to Committee an objection to Tree Preservation Order No. 4/22 relating to 24 Eldon Road, Reading (copy of TPO plan attached - Appendix 1).

2. BACKGROUND

- 2.1 The property sits within the Eldon Square Conservation Area. Where tree works are proposed within a Conservation Area, 6-weeks prior Notification of tree works (a Section 211 Notice) is required to be submitted to the Local Planning Authority (LPA).
- 2.2 On 24 June 2022, a Notice of intention to fell the Monterey cypress was received (ref 220929/TCA). Officers did not accept the reasons for felling as being justified and considered the tree to provide high amenity value, contributing to the Conservation Area. A copy of the formal response is provided in Appendix 2.
- 2.3 A TPO was served 27 July 2022 in order to prevent the felling; a TPO being the only way in which an LPA can prevent felling once Notice is received.

3. RESULT OF CONSULTATION

- 3.1 An objection to the Tree Preservation Order has been made by the neighbour at 22 Eldon Place, based on the following:
- 3.1.1 Trees should not be allowed to grow any taller than their distance from the building to protect the foundations.
- 3.1.2 The tree is oversized compared to the volume of trees in the area.
- 3.1.3 The tree's growth extends towards their property and is reaching into the guttering leading to issues with the drainage system and subsequent expenses.
- 3.1.4 Excessive winds earlier this year caused shedding of foliage and small branches on the roof and surrounding area. Extreme weather events such as this are suggested to be more common in the future, and damage caused from the actual impact of parts of the tree coming down presents a significant encumbrance to health and safety to the premises and its occupants (the houses down Eldon place are situated quite close together). Any damage caused by this tree (property or life) could be extremely expensive and possibly life changing.

- 3.1.5 The concern that this Tree Preservation Order will affect valuation and selling of the property in the future. At the time of purchasing this property a year ago (2021), there was no TPO on the tree. An estate agent and online forums indicate that many potential buyers appear to be wary about buying properties in which there is a TPO on a tree near to the property. It's expected that living centrally near to town that there would be less trees.
- 3.1.6 A concern that it takes around 2 months for a decision to be made on an application asking for permission to carry out works to protected trees. This would be a hindrance to maintaining the tree if an application has to be submitted every single time intended work is to be done.
- 3.1.7 The challenges to submit a tree works application: currently no one resides in the house of 24 Eldon Road which makes cooperation with the tree owner to submit an application difficult. Other people who have TPOs in their area had to employ a professional tree surgeon to submit the application on their behalf as the application was rejected when stating that they 'wanted to prune the tree back'. The requirement to employ someone with knowledge and understanding about a TPO adds to the challenge and would lengthen the process of getting the process sorted in a timely manner.
- 3.2 In response to the objections, Officers have the following comments:
- 3.2.1 There are no rules or policies specifically stating that existing '*trees should not be allowed to grow any taller than their distance from the building to protect the foundations*' - existing trees growing near structures should be considered on an individual basis in order to avoid felling trees which do grow close to buildings but don't actually affect them.
- 3.2.2 Officers agree that the tree stands out in a low canopy cover area but this strengthens the necessity of the Tree Preservation Order - the fewer trees are in a given area, the more important those individual trees are for the public amenity, their contribution to the Conservation Area and the climate change mitigation function they provide.
- 3.2.3 In relation to potential future issues with the drainage system, officers note that no evidence is provided with this claim. It is not known which trees will cause issues due to their proximity to buildings and which will not - officers are aware of trees that grow very close to buildings and do not cause any issues. However, in the interest of preserving the tree cover, the amenity in the area and, in this particular case, the character of the Conservation Area, evidence of the potential issues is required before considering these in relation to the tree's future. Maintenance tree works to a protected tree can still be carried out to alleviate concerns, such as pruning for clearance to buildings - permission to carry out these works to protected trees is given following the submission of a tree works application.
- 3.2.4 All trees are likely to suffer from extreme weather events and leaf fall and small branches breaking off during such events is normal and expected. However, as the objector mentions, if '*parts of the tree coming down present a significant encumbrance to health and safety to the premises and its occupants*', then the tree should be inspected periodically to identify foreseeable health and safety risks - this falls under the 'duty of care' of the tree's owner, under the Occupiers Liability Act 1957. Any concerns regarding the tree, should be directed to its owner. As above, the tree owner can submit an application for tree works based on the results of any inspection by a professional.

- 3.2.5 When the objector purchased the property, this was already a mature tree, growing in the rear garden of a neighbouring property and subject to Conservation Area status, so was, in effect, already protected but just by conservation area status. Trees generally can add value to a property as verdant areas tend to be more desirable, hence attract higher property prices. Any concerns that the tree may cause damage to the property, hence lower its value, can be addressed by appropriate action / pruning as the TPO does not prevent reasonable maintenance and management works. It is unfortunate that '*living centrally, near to town*' there are less trees, as these are areas where the benefits trees offer can have a larger impact, on more people and are needed the most, for example for pollution filtration.
- 3.2.6 The 8-week application determination period is set nationally by the Government; hence this time period is not considered to be a reason to omit a tree from a TPO. Where works require more urgent consideration, officers would aim to process the application sooner than this. Applications can include works that are clearly to be required on a regular basis and approve a repeat of that work covering a set number of years, i.e. an application would not be required on each occasion. The application process is straightforward hence not seen as a hinderance to reasonable management of a tree.
- 3.2.7 The owner's permission is not needed when pruning a tree back to property boundary and for more extensive works one must obtain permission from the owner regardless of whether the tree is protected or not - as such, the Tree Preservation Order placed on the Cypress tree does not influence the extent of liaising the objector is expected to undertake with the owner.
- 3.2.8 Anyone can submit an application, however the evidence required supporting the reasons vary and is dependent upon the extent of the proposed works. A request to '*prune the tree back*' but with no further detail will of course not be validated - pruning proposals need to be clear, e.g. '*prune to provide Xm clearance from the building*' or '*prune branches back by Xm*'. A simple application asking permission to reduce the tips of specific branches in order to provide x-amount clearance to a house is likely to be something a householder could devise themselves without the need for professional input. The provision of technical / professional reports is required when significant works or felling is proposed. When significant tree works are necessary, it is strongly recommended that a professional tree surgeon is hired anyway, as such works should not be undertaken by untrained personnel due to their dangerous nature - thus the challenge of contracting a professional is not warranted solely, if at all, by the presence of a TPO.

4. CONCLUSION AND RECOMMENDATION

- 4.1 Officers consider that the TPO is warranted and does not unduly impact on the objector's property, with there being scope to prune to alleviate concerns. The recommendation is therefore to confirm the TPO.

5. LEGAL IMPLICATIONS

- 5.1 Preparing, serving confirmation and contravention of TPO's are services dealt with by the Council's Legal Section.

6. FINANCIAL IMPLICATIONS

6.1 None.

7. EQUAL OPPORTUNITIES IMPLICATIONS

7.1 None.

8. SUSTAINABILITY IMPLICATIONS

8.1 The aim of the TPO's is to secure trees of high amenity value for present and future generations to enjoy. Trees also have high environmental benefits through their absorption of polluted air and creation of wildlife habitats.

9. BACKGROUND DOCUMENTS

9.1 Register of Tree Preservation Orders

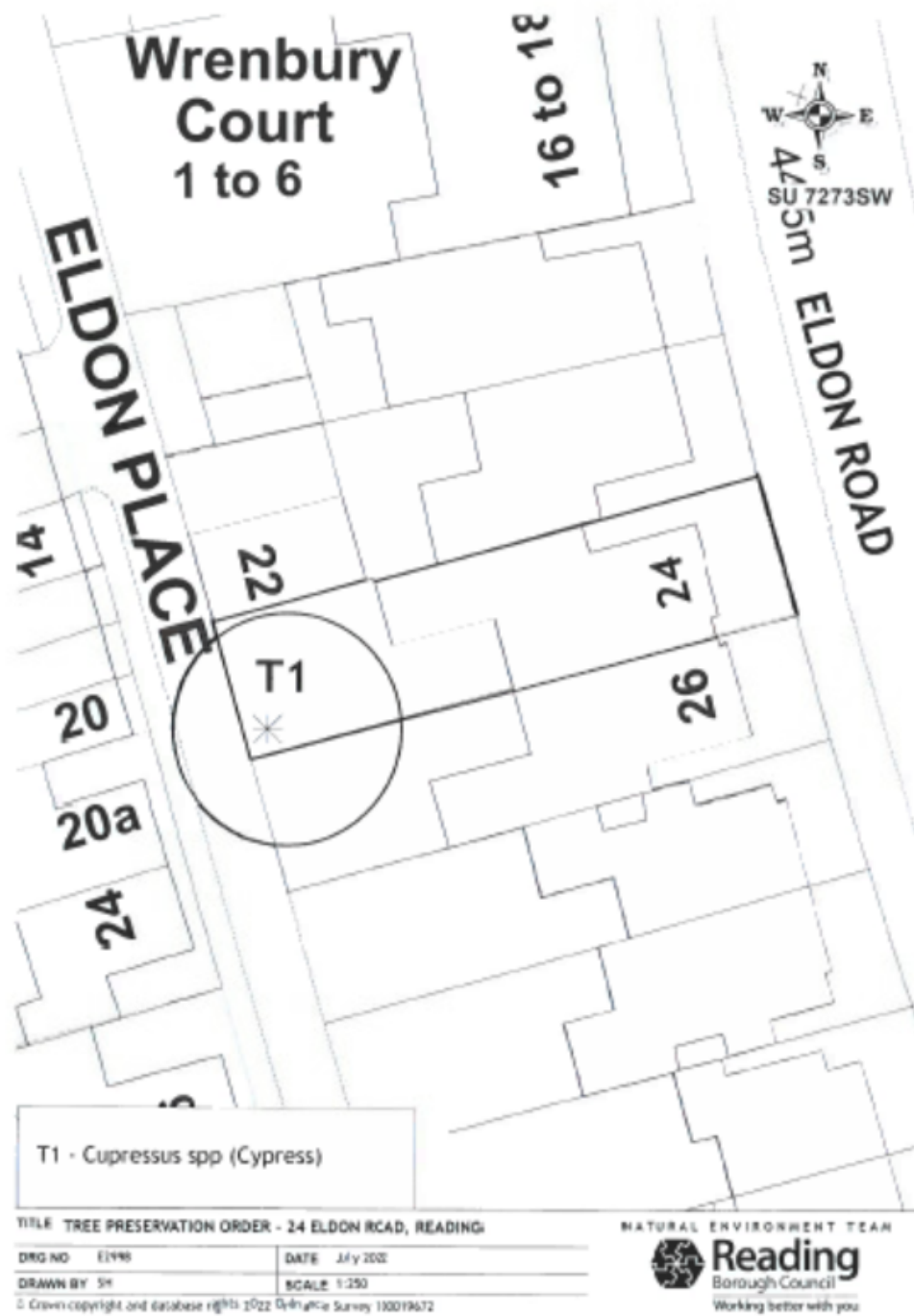
9.2 Plan of TPO 4/22, relating to 24 Eldon Road, Reading (Appendix 1)

9.3 Decision notice for Tree Works Notice 220929 (Appendix 2)

Officer: Sarah Hanson



Appendix 1 - TPO 4/22



Appendix 2 - Decision Notice for 220929/TCA



Mr J Dattani
24 Eldon Road
Reading
RG1 4DL

Frances Martin
Executive Director for
Economic Growth and
Neighbourhood Services

Civic Centre, Reading, RG1 2LU
☎ 0118 9373787

Our Ref: 220929/TCA
Your Ref:

Direct: ☎ 01189 374294
Email: andrei.nazare@reading.gov.uk

27th July 2022

Your contact
is:

Nazare Andrei, Planning, Development & Regulatory Services

Dear Mr Dattani,

**RE: PROPOSED FELLING OF ONE MONTEREY CYPRESS AT 24 ELDON ROAD, READING -
SUBJECT TO CONSERVATION AREA STATUS.**

You initially wrote to us on 19th May 2022 asking about the protection status of the Monterey cypress growing in the rear garden of the 24 Eldon Road. Following my e-mail with advice on the Conservation Area status and on how to submit a tree works notice, you submitted a notice to fell on 24th of June accompanied by a location plan and photographs of the tree. As the reason for felling, you stated the *'tree is causing significant damage as evidenced in the photos, the surrounding wall is now at an angle, and it is uprooting the area around it. [...] the tree is [...] currently hazardous, it is not going to settle or improve and will simply continue to cause damage to our property and the neighbours, potentially felling our back garden wall onto the public pavement.'*

The photographs you provided show that there had been significant level changes around the base of the tree and up to against the wall through piling up excess soil, rocks, and various other debris or rubble. It appears from the photographs there are soil and debris (parts of wall removed) pushing against the remaining wall into the direction it is leaning. The part removal of the wall could also have affected its stability. The level changes were apparent when we compared your photographs with those we have on record from 2019. However, the photographs do not demonstrate the tree directly affects the wall as none of its sizeable roots are visible. It is also apparent from the photographs that one branch was removed a short while prior to the photographs being taken, which is a matter I have already raised in my e-mail of 24th June 2022 as we have no tree works notification on

record for this.

I note that aside from the above stated reason for felling and the provided photographs, you have not provided any evidence to demonstrate the wall is indeed affected by the tree or its roots.

Further to your notification of 24th June 2022 to fell one Monterey cypress tree at the above address and my colleague Sarah Hanson's visit of 11th July 2022, I can confirm the following:

The tree in question appears to be in good condition and provides amenity value to the surrounding area. The amenity value assessment agrees with the findings of the Eldon Square Conservation Area Appraisal, which states that green spaces, trees and other natural elements are of special interest to the Eldon Square Conservation Area. Specifically, the appraisal stated that '*trees are few and because of their scarcity they make a significant contribution to this urban conservation area's special character and sense of identity*'. It also identified that loss of rear gardens (i.e. greenery) to parking and garages has a negative impact on the historic character and appearance of the conservation area.

In addition, 24 Eldon Road is located within the Air Quality Management Area meaning that tree retention is important in order to help mitigate poor air quality effects on residential areas, in line with Local Plan Policy EN15 and objective 4 of our Tree Strategy.

The Council have therefore placed a Tree Preservation Order on this tree as the proposed felling is not acceptable, a copy of which is attached (a copy has also been posted to you at the property)

The Tree Preservation Order has been served to all interested parties and is in effect as of today 27th July 2022. This is in advance of 5th August 2022, i.e. six weeks from the date of your notification.

Following the service of the Tree Preservation Order, if you still wish to carry out works or fell the tree, an application for works under the TPO must be submitted for formal consideration. You can do this via the Planning Portal, a link to which is provided on our website: <https://www.reading.gov.uk/planning-and-building-control/trees-hedges-and-environment/trees/>. However, additional information to justify felling of a protected tree will be required on submission of the application, such as a report following an inspection of the tree and the wall from appropriate professionals. If the works are subsequently refused, the appeal process can be followed, details of which will be given at the time.

During her visit, my colleague noted additional branch breakage over and above that raised in my 24th June e-mail. We are now aware of the tree's current condition based on both the photographs you have provided, Sarah's visit and an additional visit undertaken today and, as you have been told to avoid damage, any additional damage will be taken as 'wilful damage' under the 2020 of the Town & Country Planning Act 1990 and Regulation 13 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 and may result in formal enforcement proceedings. Please liaise with your tenants or any

contractors who may be undertaking works on your property so that they are aware about this.

You can object to the Tree Preservation Order served today within 28 days of service i.e. by 24th August 2022. The objection procedure is provided in the covering letter to the Tree Preservation Order (posted to you at 24 Eldon Road).

If you require any further assistance, please do not hesitate to contact me on the above number.

Yours sincerely,

Andrei Nazare

Andrei Nazare
Assistant Natural Environment Officer