



**REPORT of
CHIEF EXECUTIVE**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
4 DECEMBER 2017**

**TREE PRESERVATION ORDER (TPO) 8/17 - 9 BARNMEAD WAY, BURNHAM-
ON-CROUCH**

1. PURPOSE OF THE REPORT

- 1.1 Objections have been received relating to the serving of TPO 8/17 on trees at 9 Barnmead Way, Burnham-on-Crouch (**APPENDIX 1**). The TPO protects two Oriental Plane trees in the rear garden of 9 Barnmead Way, these are numbered T1 and T2. The objections remain unresolved, therefore the question of whether or not to confirm the TPO has been brought before members to decide.

2. RECOMMENDATION

That Tree Preservation Order 8/17 at 9 Barnmead Way, Burnham-on-Crouch be confirmed without modification.

3. SUMMARY OF KEY ISSUES

- 3.1 In June 2017 a proposal to carry out works to the trees (**APPENDIX 2**) was received from the owner. The proposal was to Pollard the trees, the trees had not been pollarded in the past, although crown reduction works had previously been carried out as partial management of the tree.

3.2 Ownership

- 3.2.1 The trees are in the rear garden of Mr and Mrs Harman 9 Barnmead Way, Burnham-on-Crouch. They are both on, or directly adjacent to, the eastern boundary and as such overhang the rear gardens of neighbours at 1 Woodcutters and 7 Barnmead Way. In their unmanaged state, the crown of T1 also encroaches slightly upon 5 Beauchamps.

3.3 Objections

- 3.3.1 Objections to the serving of the TPO have been received from Mr and Mrs Harman of 9 Barnmead Way who have also collected signatures from several other properties in Barnmead Way, Woodcutters and Beauchamps. The petition submitted by Mr and Mrs Harman is attached (**APPENDIX 3**). Also appended is a plan showing the location of the signatories, those served with the TPO and the location of the trees in question (**APPENDIX 4**)

3.3.2 A summary of the objections raised in Mr and Mrs Harman's covering letter are as follows:

1. The trees are not in a conservation area.
2. The trees are not an endangered species.
3. The trees have not been managed, various arboriculturalists consulted are of the opinion that the trees are too large for the garden.
4. There is concern that roots may be under the foundations of properties because of the size and high winds caused by climate change, the trees would be vulnerable to damage, with dead wood and loose limbs breaking away, causing damage to their own and neighbours gardens.
5. According to Kew Gardens, hairs from the fruits can cause bronchial problems, two of the arboriculturalists have supported this.
6. Branches are a metre away from the children's bedroom window.
7. The trees do not have amenity value, being more of a hazard and a risk.
8. Point 6 references incorrect information provided by the Council in response to an enquiry and reiterates points made in the letter.

3.3.3 Details of objectors on the petition (26 signatures):

- Nicola Harman, 9 Barnmead Way, Burnham-on-Crouch
- Marc Harman, 9 Barnmead Way, Burnham-on-Crouch
- Julie Torrance, 11 Barnmead Way, Burnham-on-Crouch
- Peter Finch, 17 Barnmead Way, Burnham-on-Crouch
- Hazel Avery, 15 Barnmead Way, Burnham-on-Crouch
- Robin Avery, 15 Barnmead Way, Burnham-on-Crouch
- Kathy Lidbury, 7 Barnmead Way, Burnham-on-Crouch
- Derek Lidbury, 7 Barnmead Way, Burnham-on-Crouch
- Linda McEwan, 6 Barnmead Way, Burnham-on-Crouch
- John McEwan, 6 Barnmead Way, Burnham-on-Crouch
- Val Sims, 1 Barnmead Way, Burnham-on-Crouch
- Dean Moody, 3 Barnmead Way, Burnham-on-Crouch
- Lisa Rolph, 5 Barnmead Way, Burnham-on-Crouch
- Georgia Rolph, 5 Barnmead Way, Burnham-on-Crouch
- Kelly Nicholls, 1 Woodcutters, Burnham-on-Crouch
- Andrew Nicholls, 1 Woodcutters, Burnham-on-Crouch
- Keith Hobson, 5 Beauchamps, Burnham-on-Crouch
- Janet Hobson, 5 Beauchamps, Burnham-on-Crouch
- Terri Axcell, 4 Beauchamps, Burnham-on-Crouch
- Dennis Axcell, 4 Beauchamps, Burnham-on-Crouch
- Brenda Rands, 7 Beauchamps, Burnham-on-Crouch
- Edmund Rands, 7 Beauchamps, Burnham-on-Crouch
- Clive yeoman, 8 Beauchamps, Burnham-on-Crouch

- Ron Woodham, 6 Beauchamps, Burnham-on-Crouch
- Tim Williams, 34 Beauchamps, Burnham-on-Crouch
- Mandy Williams, 34 Beauchamps, Burnham-on-Crouch

3.3.4 See **APPENDIX 4** for a plan of the locations of the properties in relation to the trees.

3.3.5 In addition to signing the petition, a separate letter of objection has been received from Mrs Lidbury of 7 Barnmead Way. A summary of her objections are as follows:

1. One of the trees overhangs her garden, blocking light to the greenhouse and attracting Wood Pigeons that cover the greenhouse and garden in bird waste.
2. The canopy prevents rain from getting to her garden, making it very dry.
3. The loss of growing space is very inconvenient.
4. The tree is not an ancient one and does not pre-date the development.
5. She understands that the original owners of 9 Barnmead planted the two trees. She feels it is not a suitable species for rear gardens.
6. In high winds the tree thrashes about alarmingly, a branch previously broke off, this could easily happen again with potentially fatal consequences. She is concerned that the whole tree could become uprooted and fall on a house.
7. Mrs Lidbury also refers to the characteristic fruits of the species and the potential irritant they may cause.
8. Mrs Lidbury questions the amenity value the trees provide, set against the dis-benefits to the people live nearby.

3.4 **Tree Officer's response to points of objections:**

3.4.1 Mr and Mrs Harman, 9 Barnmead Way:

1. This is not relevant to the serving of a TPO.
2. This is not relevant to the serving of a TPO.
3. It is agreed that they need to be managed. The TPO was served in response to proposed excessive works that would cause damage to the trees, potentially impacting negatively on neighbouring property and remove the amenity value that the trees provide. The presence of tree roots becomes relevant if other contributing factors are present, such as shrinkable, desiccated clay of a plastic nature. Damage to property has not been raised thus far, other than concerns that the ends of limbs may make contact with roof tiles etc. Furthermore, case law expressly states that other methods should be considered when a TPO is in place, before undertaking excessive works that reduce the amenity value of the trees.
4. The young leaves and fruits develop fine hairs which are present during the spring and lost by early summer. These are characteristic of the species which includes London Plane trees. The hairs can be problematic to some people if the foliage is disturbed, for example during tree surgery, therefore many tree surgeons will wait till later in the season to carry out crown works. This effect can be reduced or even negated by regular, appropriate management.

5. The trees are visible from several angles and distances, able to be viewed above the rooftops of houses in Beauchamps and Barnmead Way. When assessed using TEMPO (Tree Evaluation Method for Preservation Orders - Julian Forbes-Laird), a method of evaluation widely used by Local Authorities, the trees scored 19 which is in the highest score Range (**APPENDIX 5**).
6. The Council has no record of providing guidance with regard to the trees being within a conservation area. However the council does have records of discussions with a local Tree Surgeon with reference to these trees being retained under planning conditions.

3.4.2 Mrs Lidbury, 7 Barnmead Way:

1. Correct management would reduce this problem, if not remove it.
2. The age of the trees is not relevant to the amenity value. The specimen is large and has been managed better in the past. Appropriate management will enable them to be retained whilst reducing the impact upon neighbours.
3. Appropriate management will reduce likelihood of limb failure and ensure the trees remain healthy.
4. Appropriate management will reduce the potential for irritant from hairs. The TEMPO assessment puts sets the TPO value of the trees as very high. Large trees need to be appropriately managed to reduce negative impact upon neighbours.

4. SITE ASSESSMENT

- 4.1 The two trees subject of TPO are in the rear garden of 9 Barnmead Way on eastern boundary of the garden. 9 Barnmead Way has a sizeable garden, being approximately 18 x 19m, however the trees have not been managed for some years, and therefore the lower crowns are likely to impact upon the available space in the garden. The crowns overhang the boundary and overhang part of the rear garden of 1 Woodcutters and a small portion of the crown of T2 overhangs the northwest corner of the rear garden of 7 Barnmead Way. In addition there is some encroachment to the garage roof of 5 Beauchamps.
- 4.2 In previous years both trees have been managed by periodical crown reduction and crown lifting where necessary, in particular T1 which is closest to adjacent properties i.e.: 1 Woodcutters and 5 Beauchamps. This method of management has previously helped to control the size of the crowns, preventing contact with buildings and reducing the impact on neighbouring properties, without losing the amenity value that the trees provide. It is appropriate for the trees to continue being managed in this way.
- 4.3 The recent proposal was to 'Pollard' the two trees. Pollarding involves the removal of the branches of a tree and repeat pruning to the same point, developing a 'knuckle' stunting the natural growth of the crown. This is a regime that is initiated when the tree is young and the cuts involved are small and easier for the tree to cope with. To initiate a Pollard regime on a mature tree will have a significant impact upon its health and appearance. It is likely to result in a lowering of its health levels and thus may

result in the tree(s) becoming susceptible to disease and decay with an associated increased risk of limb failure. The large wounds that would result are likely to decay, rather than callous over. This proposal of works is directly in conflict with the advice contained in BS3998:2010 – Tree works – Recommendations which is referenced in all permitted or controlled tree work matters dealt with by the Council.

4.4 **Planning History**

- **MAL/326/78** - 4 Detached Chalet Houses
Condition 9 refers to retention of trees.

5. **CONCLUSION**

5.1 **Tree Officer's Summary**

- The trees are large and significant in the immediate landscape.
- They have high amenity value, scoring 19 when assessed using TEMPO.
- They are in a rear garden and can be managed sensitively, minimising negative impact upon their health and upon the people living with and around them.
- The serving of a TPO does not prevent applications for suitable works being submitted. A TPO application can be submitted by anyone.

6. **IMPACT ON CORPORATE GOALS**

6.1 This report impacts on the following:

2 Protecting and shaping the district and balancing the future needs of the community

- The right balance between protecting the natural environment and supporting development opportunities.
- A natural and built historic environment that is safeguarded and enhanced.

4 Delivering good quality, cost effective and valued services in a transparent way

7. **IMPLICATIONS**

7.1 Government guidelines advise that: The Local Planning Authority (LPA) is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.

7.2 If Members decide to confirm TPO 8/17, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:

1. that the TPO is not within the powers of the Act, or

2. that the requirements of the Act or Regulations have not been complied with in relation to the TPO.
- 7.3 There are costs involved in this procedure which can be awarded. An application must be made within six weeks of the date the TPO was confirmed.

Background Papers: None.

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