



**DECISION
DIRECTOR OF DEVELOPMENT AND ENVIRONMENT**

DECISION No. 16/17 223 DE

SUBJECT:

District of North Somerset 33 Riverway Nailsea (No. 1049) Tree Preservation Order 2016

DETAILS:

Tree Preservation Order (TPO) 1049 was made on 13 October 2016 to protect two oak trees and one walnut tree within or near 33 Riverway, Nailsea. A Section 201 direction was applied which meant that the Order came into immediate effect. The period for receipt of objections has now expired.

After six months from the date a TPO is made the trees protected therein lose the protection of the section 201 direction. If the council wish to confirm the TPO as it stands, or confirm it subject to modification, the decision must be made before the end of the six months.

CONSIDERATION OF OBJECTIONS AND OTHER REPRESENTATIONS:

Comments

One letter with general comments about the height and spread of the trees was received. A reply was sent separately to this resident to explain that maintenance of the trees is the responsibility of the tree owner. A tree preservation order does not categorically prevent tree works being carried out, but written permission must be gained from the council prior to any works being carried out. The resident also mentioned that they feel the leaves from the walnut tree are making the footpath slippery. A contact number for the highway area officer was included in the reply, so that the residents can report future leaf fall issues.

Objections

Three objections were received. Issues raised and the officer response are below.

1. The oak trees to the rear are part of an overgrown hedgerow and should not be included in a preservation order.

Officer response: The two oak trees may have originally been part of a hedgerow, but have since developed into good individual specimen trees, worthy of protection because of their public visual amenity value. Most of the large housing estates in Nailsea were built on former farmland where oak trees in hedgerows were traditionally common. Many of these trees were incorporated into the housing schemes, and have become an important part of the landscape in Nailsea. T2 and T3 contribute to the natural regeneration of trees in this part of Nailsea, and their loss would be a loss to the value of the landscape.

2. 33 Riverway has a history of tree related subsidence damage and the oak trees T2 and T3 could be a further risk to the structure of the property.

Officer response: The TPO does not categorically prevent tree works such as felling being carried out, but written permission must be gained from the council prior to any works being carried out. If there is evidence of the trees causing further damage permission will be granted. We have made the TPO to ensure that these visually important trees are not removed without sufficient reason.

3. The oak trees T2 and T3 block out sunlight from the house for most of the day.

Officer response: People have both positive and negative experiences around shading. There are many tree owners that cherish the shade cast by their trees. We do not consider this a reason not to confirm a TPO.

4. The height and overall size of the oak trees have the potential to cause damage to the house during a storm.

Officer response: A tree is not necessarily dangerous just because it is tall and wide. It is unfortunately not possible to say that all trees will be 100% safe in all storms but most trees support themselves well and withstand very high winds. Tree owners should have their trees inspected to ascertain their health and structural condition, and risk of harm, and take reasonable steps to ensure the risk is acceptable, in order to meet their duty of care. No information has been submitted that shows the tree is posing an unacceptable risk. If such evidence is submitted with a tree work application, we will grant permission to carry out works which bring the risk down to an acceptable level.

5. The oak trees were not present when the house was built and have grown from a hedgerow.

Officer response: Residents have noted that the trees were present in 1961, two years prior to 33 Riverway being built. The trees meet the criteria for inclusion in a TPO due to their current public visual amenity value, and whether or not they were once part of a hedgerow is not taken into consideration.

6. The walnut tree has caused damage to the front border wall and the public footpath.

Officer response: The damage to the front wall is long standing and minor, when compared to the visual importance of the tree in the landscape. The lifting of the tarmac is expected when a tree is located close to a footpath. The issue is easily repaired, as is done regularly all over the district. These issues are not significant enough for us to not confirm the TPO.

7. The oak trees have not been maintained and are not stable. It would be costly to carry out work to rectify this.

Officer response: Trees do not generally require regular maintenance to stay healthy and structurally sound. The fact that they have been generally untouched is not necessarily a problem, as this often means that the trees will have fewer pruning wounds where decay can take hold. At the time of the tree officer's

assessment, the risk of harm from the trees was not unacceptable, and the trees were not considered unstable. Tree owners should have their trees inspected regularly to ascertain the risk of harm and any works to reduce an unacceptable risk. We recommend the use of a tree consultant and not a tree surgeons, as tree surgeons are less likely to have the knowledge involved in tree risk assessment, and may recommend more tree work than is necessary, as tree work is their business. Also see point 4 above.

Conclusion

The TPO will be confirmed as the objections above are not sufficient justification to consider the alternative.

DECISION:

That Tree Preservation Order 1049 is confirmed without modification.

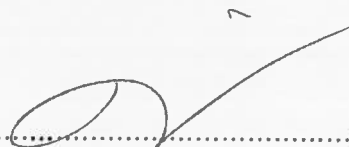
Reasons:

1. The trees are visible to the general public and contribute to the green infrastructure and biodiversity of the area.
2. The trees appear to be in reasonable condition with reasonable life expectancy.
3. The property 33 Riverway is currently for sale. Prospective buyers have shown an interest in extending the house and/or removing the trees. The trees are therefore considered to be under threat and the making of the Tree Preservation Order will ensure that any proposed work is consistent with good arboricultural practice and in the interests of public amenity.

Other Alternatives Considered:

None.

Signed.....



John Flannigan
Community and Environment Service
Area Manager, Streets and Open
Spaces – on behalf of and exercising
the powers of the Director of
Development and Environment.

Dated.....

9/12/2016

