

Recommendation: **GRANT TPO CONSENT**

Reduce lateral limb spread of 1no. Oak T1 by 2 metres on north side only, leaving a crown spread (radius) of no less than 9m. (no reduction of height) subject to TPO 1724.

#### **4 Policy Considerations**

National Planning Policy Framework

Havant Borough Local Plan (Core Strategy) March 2011

DM8 (Conservation, Protection and Enhancement of Existing Natural Features)

Havant Borough Local Plan (Allocations) July 2014

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

#### **5 Statutory and Non Statutory Consultations**

**Councillor A Briggs - Cowplain**

**Councillor D Keast - Cowplain**

**Councillor Narinder Bains - Cowplain**

#### **6 Community Involvement**

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 7

Number of site notices: 1

Statutory advertisement: Not applicable.

Number of representations received: 2

| <b>Comment</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>Officer Comment</b>                                                                                                                                                                                                                                                                            |
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| 1. The information provided by Mr Bloor's agent as to the tree's ownership is incorrect, as is his drawing indicating its location. Ownership & location were ascertained and referenced by Mr Paul Jackson, of HM Government's Planning Inspectorate, in his robust rejection (12th May 2021) of Mr Bloor's appeal against the council's own rejection of Mr Bloor's most recent attempt to deform the tree. Mr Bloor & his agent continue to wilfully misrepresent ownership and | Comments noted.<br><br>The disputed ownership of the tree is not a material consideration when dealing with an application to prune the tree and is a private matter between the relevant parties.<br><br>Any permission granted does not automatically allow access to another persons property. |

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| <p>location of the tree in planning applications, whilst signing to indicate that the information he/they have given is "true and accurate".</p> <p>2. We will seek prosecution of anyone impinging upon our property in order to carry out any work on this tree.</p> <p>3. As indicated by Mr Jackson, partial reduction to the Northern aspect would have significant adverse aesthetic impact "the tree would appear unbalanced with limited overall effect on shade in the appellant's garden".</p> <p>4. It is only a year since Mr Bloor previously applied to remove 2-3m of growth. That application was denied &amp; Mr Bloor's appeal to the Secretary of State was firmly rejected: "I have taken account of all the points raised but find no circumstances in favour of the proposal that outweigh the considerable amenity benefit the oak tree provides." Mr Bloor has stated that he wishes to reduce the size of the tree in order to allow more light onto his patio. Should this be his desired intention, it is illogical to seek to cut back one sector of the tree, thereby thickening the canopy in that area. This was also alluded to by Mr Jackson. "Moreover, the work is likely to lead to more concentrated new growth emerging from the cut points, which would unbalance the appearance of the tree and increase the density of shade, if not the extent, over part of the garden." Consequently, we believe that continued submission of applications to remove growth is being done with the intention of unbalancing the tree in small steps in the hope that HBC may in future accept a much larger size reduction due to the tree becoming unsafe.</p> | <p>The appeal decision was based on a reduction of the whole tree. This application is to reduce only the northern laterals and by 2m not 2-3m as previously applied for.</p> <p>Each application must be based on its own individual merits.</p> |
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5. An English Oak tree in the upper part of Durley Avenue, also subject to a TPO, has been felled. An oak at the rear of No. 30 has been subject to severe reduction, entirely ruining its aesthetic appeal & affecting its environmental benefit for at least the immediate future. This, or felling, has been the fate of most of the other oaks which once lined Durley. These points were confirmed by Mr Jackson "indeed, the present condition of other large trees in the neighbourhood illustrates the harm to amenity that can occur by extensive pruning."

6. The tree is the last virgin oak in the upper part of the avenue & it is consequently increasingly important for it to remain undisturbed in order to maintain its importance to the local ecosystem, not least in its contribution to mitigating negative effects of traffic pollution. It contributes significantly to soaking up water from the clay soil & provides for a wonderfully diverse fauna, supporting over thirty five species of birds including treecreeper, three species of woodpecker & owls. Bats are resident.

7. If the current application is granted, we strongly urge & request that a qualified representative of HBC is present on site throughout the work to ensure that the terms of the approval are entirely & completely complied with. We unfortunately have to make this request due to an incident occurring when work was previously being undertaken on the tree.

8. We seek quiet enjoyment of our property. Mr Bloor once again seeks to disturb that quiet enjoyment and damage the amenity value of the tree for the community, in order to achieve a greater evening light-fall on his patio; a patio shaded by the tree at the time he purchased his house. In Mr Jackson's words, indicating that the tree should remain untouched:

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| <p>"a reasonable amount of garden would remain unshaded for recreational purposes, including much of the terrace, which extends the whole width of the property."</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                        |
| <p>Planning – Application I am responding to support the application of a reduction to the Oak. I am the owner of the Oak.</p> <p>The tree, subject to this application, is a large sized Oak that appears to be exhibiting normal vigour and vitality. The works applied for, are due to the excessive canopy cover within the applicants garden (over one third) and that of my property (over two thirds of my garden area).</p> <p>A reduction of the canopy by 2m on the northern sector should not cause the tree to become unbalanced or lose public amenity value.</p> <p>There is no getting away from the fact that 'trees within the urban environment will at times require management due to their size and cannot be managed in the same way that a countryside tree is able to be left in many instances as a virgin tree with little to no intervention.' These works if permitted should allow for harmony between the tree and applicants improving their quality of life in the garden without detriment to the health or public amenity value offered by the Oak.</p> <p>I have owned and lived in my property for over 35 years. (June 1986). The Oak in question has grown beyond belief in that time. During the summer, my garden is mostly in shade. I bought my property because the garden was south facing. Now we get little sunshine, other than when the sun is at its height, during the months of June and July. Either side of that, we are in shade throughout.</p> | <p>Comments noted.</p> |

Many applications have been submitted over the years, in the correct manner to request a reduction. If you look at the history of the applications, we were granted permission only twice. For over 21 years, we have had very little success in having the Oak pruned. APP/14/00459 Permission was granted. Then subsequently quashed due to a neighbour threatening to sue HBC and fabricating about Bats roosting. It is a known fact that Bats do not roost in a healthy Oak. APP/15/00508 Permission was granted. However, to satisfy the demands of the (redacted) Avenue, the Arboriculturalist had to be present, namely Mr Jamie Gargett. Which was a singular waste of his time and that of the taxpayer. Mr Gargett will attest to the fact that the neighbour at no (redacted) The tree surgeons could not carry out their duties for fear of harming the person in question. As a result, we did not have 2 metres removed from the canopy and no height reduction. Therefore, we had to pay the tree surgeons the full amount of their invoice for very little work completed. At that time in 2015 (six years ago) we had permission to remove 2 metres, but fell far short of that. To this day, we still haven't had any more work agreed regarding a reduction.

I am attaching here the wording of an email I sent to the Councillor Michael Cheshire, in 2015. This was purely to make HBC aware of the situation and was fully endorsed by Jamie Gargett.

## **7 Planning Considerations**

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- Whether the degree of pruning works requested would undermine the amenity value of these trees and whether this could also be harmful to their ongoing health and vitality.

- 7.2 My inspection related specifically to assessing the proposed works rather than generally inspecting the tree's health and condition in any great detail. I visually inspected the tree from ground level and the following report deals with the relevant issues that have been raised on site, in the application form and from my site observations.
- 7.3 This application to undertake work to a tree subject to a tree preservation order relates to the proposed pruning of one mature Oak tree. The work proposed is to carry out a reduction of the lateral branches on the northern side of the tree's canopy by 2 metres (over the gardens of 23 and 25 Summerhill Road). The current crown spread (radius) on the northern side is 11m so this would take the radius to no less than 9m.

The tree is situated on the boundary line between two adjoining rear gardens, one of which is on Summerhill Road and one on Durley Avenue, Waterlooville.

The Arboricultural Officer viewed the tree from the applicant's garden only. The crown of the tree extends over the boundary lines and gardens of neighbouring properties, including the applicant's and number 25 Summerhill Road. The tree has been managed previously by way of a limited reduction of the laterals over the applicant's garden and number 25, and there is the presence of a small amount deadwood. As far as it was reasonable to see the tree appeared in a reasonable condition for its age and species. The application has not been submitted because of any concerns over the health of the tree.

Given the position and size of the tree it has prominence in the street scene and between the neighbouring dwellings, it contributes to the tree cover in the area and it is therefore considered to have significant amenity value.

One objection letter and one of support has been received.

An earlier application to crown reduce the whole tree by up to 3 metres was recently dismissed on appeal, however every application that is submitted is assessed on its own merits and this current application seeks to reduce the northern laterals only by 2m, which is less than what was proposed in the refused application APP/20/00385.

## **8 Conclusion**

In 2015 permission was granted to reduce the northern laterals and the tree has not been negatively effected by this work. The intention to reduce the northern laterals again, will not harm the health or amenity value of the tree, however the applicant should note that in undertaking this work the tree may well put on significant re-growth to compensate.

Having assessed the tree and the work proposed it is considered to be appropriate and proportionate in this instance to allow permission again to reduce encroachment over the gardens of 23 and 25 Summerhill Road.

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## 9 RECOMMENDATION:

That the Head of Neighbourhood Support be authorised to **GRANT TPO CONSENT** for application APP/21/00699 subject to the following conditions

- 1 The tree works for which consent is hereby granted shall not be carried out otherwise than in full accordance with all relevant content of BS 3998 (2010).

**Reason:** In the interests of tree health and safety.

- 2 The tree works for which consent is hereby granted shall be carried out and completed no later than one year from the date of this decision notice.

**Reason:** To control the timing of the works.

- 3 The contractor (or other person) carrying out the work shall contact the Arboricultural Officer at least 10 days prior to starting work.

**Reason:** To ensure that the contractor or person carrying out the work clearly understands the consent.