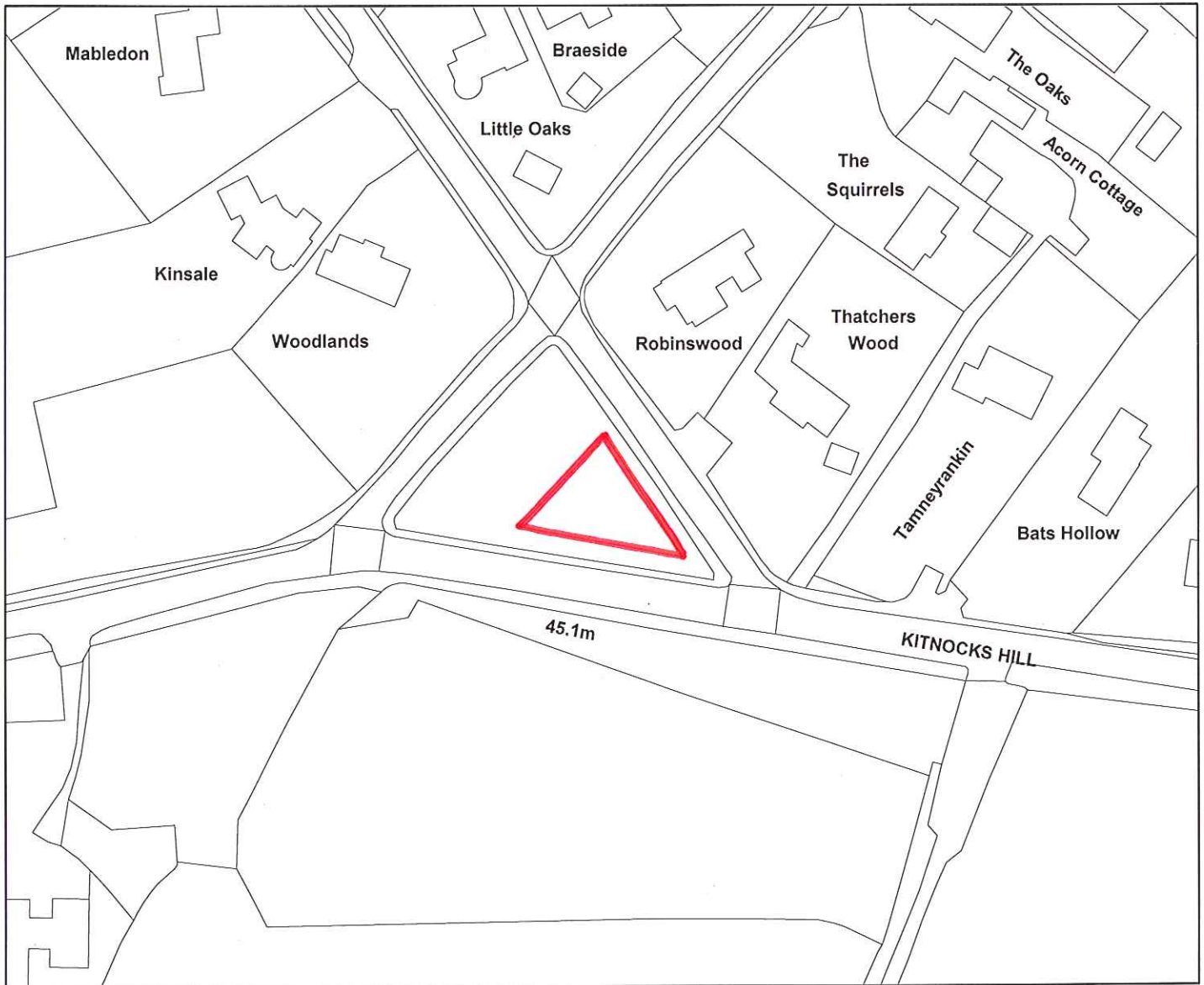


Street Record, Chapel Lane, Curdridge



Winchester
City Council

13/01891/TPO



Legend

Scale: 1:1250



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Organisation	Winchester City Council
Department	Winchester GIS
Comments	
Date	03 October 2013
SLA Number	100019531

WINCHESTER CITY COUNCIL
DEVELOPMENT CONTROL COMMITTEE AGENDA

Item No: 1
Case No: 13/01891/TPO / WTPO4534/21
Proposal Description: 1no Monterey Pine - fell
2no beech - fell
Address: Street Record Chapel Lane Curdridge Hampshire
Parish, or Ward if within Winchester City: Curdridge
Applicants Name: Mr Senan Hennessy
Case Officer: Mr Thomas Gregory
Date Valid: 22 August 2013
Site Factors:

Recommendation: Civil Aviation
Split decision

General Comments

This application is reported to Committee because of the number of objections received and at the request of Curdridge Parish Council.

Site Description

The site is a triangular piece of land between Kitnocks Hill, Chapel Lane and Lockhams Road, Curdridge. There are currently a number of trees around the perimeter of the site that are protected by TPO.

Proposal

The proposal is to remove three trees located on the southern side and eastern corner of the site (identified as T1 – Pine, T12 & T15 – Beech in the TPO) due to their health and condition.

Relevant Planning History

The site was subject to a planning application in 2008, (**08/00166/FUL** - 2 no. two bed and 1 no. three bed dwelling with vehicular access from Lockhams Road and Chapel Lane) which was refused at committee on 03.07.2008 and then allowed at appeal on 16.06.2009. The application identified three trees for removal, two of which were protected by TPO 1992 (T10 - Sycamore & T13 - Hornbeam) and located along the north eastern boundary.

The TPO in force at the time of the original application was a group order which specified a number of species (TPO 0113). Given the age and nature of this old order it was decided to reassess the trees and to make a new TPO.

In 2010, a new TPO was served (TPO 1992) which identified 15 individual trees, including T10 & T13 for which permission had already been given for removal under **08/00166/FUL**. Although the TPO postdates the planning permission, the TPO is overridden and so the removal of these two trees would not require a further application. T10 has now been removed.

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The Council received a five day notification on 15/08/13 that proposed the removal of six trees on the grounds that they were dead or posed an imminent danger. Under the regulations relating to tree protection, trees which are dead or dangerous can be removed without the express consent of the Council and so do not need to be the subject of an application in the normal way. The Council did not disagree with the felling of three of these six trees (T2 – Pine, T9 & T11 – Beech) because officers concluded that they were dead or dangerous but instructed the applicant that a full application for tree works (with supporting documentation) would be required in respect of the other three (T1 – Pine, T12 & T15 – Beech) to which this application relates. This current application is for the removal of the remaining three trees, originally identified in the five day notification. T2, T9 and T11 have since been removed.

Representations:

Curdridge Parish Council

1. It is suggested by the arboricultural consultant that a satisfactory reason for the removal of TPO specimens is solely that their maintenance would be a 'financial burden' for future occupants.
2. The removal of these trees and the purpose of the application appears to be a vessel for avoiding the expense of piling foundations.
3. The reasons stated in the application relate to health and safety issues. However, the deadwood was not removed from T1 when the tree contractors were on site.

N.B. Other points were raised by the Parish Council but not considered relevant to this application; they are included in the full comments appended.

15 letters received objecting to the application for the following reasons:

1. The application does not state which trees are to be felled.
2. The proposals contravene the local village design statement and any removal of trees will continue to compromise the local natural environment. The trees are protected by a recently confirmed TPO and are also listed on the Hampshire Treasures website as examples of the rich diversity of landscape.
3. The removal of further trees will open up views into the new development and any screening value will be lost. These trees are visible from the Isle of Wight.
4. The trees are healthy and experts have said there is no reason to remove the trees on safety grounds. The Council's Tree Officer assessed the trees and agreed that only three trees should be removed on safety grounds (now removed).
5. The only grounds for removal must be to improve the profits made on this site by increasing the available space on an unsuitable plot.
6. The trees do not need to be felled for the housing development to go ahead as the development is already well underway.
7. The trees do not pose any particular threat to road users.
8. If any areas of the site are unsafe, they should be cordoned off and workers kept clear. Any danger from trees should have been taken into account from the start.
9. Any replacement planting would be a traffic hazard by being too low and blocking sight lines.

Relevant Planning Policy:

Winchester District Local Plan Review
DP3, DP4

Winchester Local Plan Part 1 – Joint Core Strategy

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CP20

National Planning Policy Framework

Curdrige Village Design Statement

Planning Considerations

The application proposes the felling of three trees; a Pine (T1) and two Beeches (T12 & T15) which are located in the southern side and eastern corner of the site.

It is acknowledged that the Pine identified for removal in this application has some major deadwood within the crown and there are signs of dieback. It is approximately 20m in height with a stem diameter of 1200mm. This is to be expected on a tree of this age and size. Although the tree is beginning to reach the end of its useful life in terms of its health and condition, the submitted information is limited and is considered inadequate for the purpose of justifying its removal at this time. The loss of this tree would have a significant negative impact on visual amenities of the areas and it is proposed that consent be refused for this element of the application.

Remaining deadwood may be removed from the tree without an application to the Council.

The two Beech trees are in poor condition and both show signs of severe die back, particularly T12. Whilst the submitted information is limited, both trees are clearly in decline and are unlikely to recover. The Beech trees on this site are not growing well and a number have already been removed due to their poor health and condition. It is therefore proposed that the removal of the two Beech be consented on grounds of poor condition and limited future potential and that this be subject to a condition that they are replaced with two Hornbeams, other examples of which are currently growing well on the site.

In response to the numbered points raised in the representations above, the following clarification can be provided :

- Potential difficulties in future maintenance and the costs thereof are not sufficient justification in themselves for the removal of a TPO tree. However, they are relevant factors to consider because future maintenance works reflect the general health and condition of the trees. As explained above it is considered the two beeches are in such poor condition that their removal and replacement is the most sensible approach.
- The removal of these trees would make no difference to the foundation type, as the piled foundations have already been put in, in accordance with the planning consent. It should also be noted that 12 months should pass before a removed tree does not need to be considered when determining foundation depths. There are other trees on site which would also require consideration in relation to foundation design.
- The application does highlight safety as being one of the concerns for seeking consent for removing the trees. The fact that deadwood was not removed from T1 when operatives were on site carrying out other operations does not mean that this issue is no longer relevant.

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- The application clearly states which trees are proposed to be felled and officers are satisfied there is sufficient information to make a decision.
- The Curdridge Village Design Statement makes reference to preservation of trees as being a high priority. This accords with the Council's approach to development proposals and tree protection. However, it would be unreasonable to insist on the retention of trees that are clearly in poor condition and have a limited life expectancy even if they are subject to Tree Preservation Orders. In order to ensure long term maintenance of tree cover, it is preferable to allow the removal of declining trees, so they can be replaced with species more likely to flourish under the conditions on site.
- The removal of further trees would open up views to the site from the public domain but replacement tree planting will help to mitigate this, as the new trees mature. The landscaping scheme for the planning permission will also assist with this. The trees removed as a result of the five day notification were considered to be dead or to pose an imminent danger. The remaining three trees were not considered to qualify under the terms of the exemption (i.e. officers considered that they were neither dead nor did they pose an imminent danger). However, this does not mean that the trees are healthy and in good condition, or that their removal could not be justified on arboricultural grounds through the submission of an application. The purpose of the exemption is to avoid the delays associated with having to submit an application when the removal of trees is urgent.
- The grounds for removal relate to the condition and limited life expectancy of the trees. The potential profit made from this development has not been identified as a reason for removing the trees in this application and would not be a material consideration in its assessment by officers.
- It is not being suggested by the applicant that the trees need to be removed in order to facilitate this development.
- The trees are in decline and are more likely to fail in their condition than if completely healthy. They are within falling distance of the highway.
- Those trees which were considered immediately unsafe have been removed under the five day notice. To cordon off a working site or what is to be a domestic garden due to the likelihood of tree failure would be unreasonable. It would not have been possible to accurately anticipate the current condition of the trees at the time of the planning application in 2008. The condition of the trees has deteriorated since the planning application was made and these proposals need to be assessed on the basis of their current condition and future life expectancy.
- The new tree planting would have a limited impact on site lines due to the size of tree specified in the condition.

Recommendation

Permit - 2no Beech - fell

Subject to the following condition(s):

1 Following the removal of the trees hereby consented, two standard Hornbeam trees shall be planted within the area of trees subject to tree felling and within a period of 9 months. If, within a period of 2 years from the date of planting, the tree (or any other tree planted in replacement for it) is removed, uprooted, destroyed or dies, another tree of the same size and species shall be planted at the same place.

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The Tree Officer shall be informed once the tree has been planted so that it can be inspected and deemed appropriate.

Reason for above condition: to maintain the tree cover and the contribution that trees make to the character and amenity of the area.

Refuse - 1no Monterey Pine - fell

Subject to the following refusal reason(s):

1 Insufficient information has been provided to justify the removal of this prominent and mature tree on the grounds of its health and condition. Its loss will have a seriously negative impact on the visual amenities of the area.

Informatives:

A Standard is defined as having 10-12cm girth at planting and having a height between 3.5 and 4 metres at planting. Replacement of trees is enforceable in law and failure to comply with the condition could result in the issue of a tree replacement notice and prosecution if the local planning authority believes that the criteria of the condition have not been met. Trees make an important contribution to the character of the conservation area creating a green environment which we all enjoy. Winchester City Council encourages the planting of new trees to replace any that are felled in order to maintain the positive benefits that trees provide.

From: Clerk Curdridge Parish Council [clerk.curdridge@parish.hants.gov.uk]
Sent: 19 September 2013 23:07
To: Planning Mailbox Account
Subject: 13/01891/TPO Street Record Chapel Lane (The Triangle) - 1no Monterey Pine Fell, 2no Beech Fell

Dear Winchester Planning

Should the officer be minded to recommend approval for this application the Parish Council requests that it be sent to PDC Committee for determination.

The Parish Council's agreed response is to oppose this application in the strongest of terms.

It appears to be suggested by the arboricultural consultant for the developers/original applicant that a satisfactory reason for the removal of TPO specimens is solely that there maintenance would be a 'financial burden' for future occupants. Surely the whole purpose of a TPO is to prevent trees being felled merely because they are somewhat inconvenient.

The Parish Council would also suggest that the principle of 'caveat emptor' is more appropriate for any future owners, that the fair market value would be representative of such a financial risk and not for the Planning Authority to artificially enhance.

The Parish Council would emphasise that the current TPO application appears to merely be a vessel for avoiding the expense of piling foundations, as specified in the original application and as indicated since the submission of the Landscape Plan in 2011. It is felt that this is a major variation from the original application and should be treated as such, not allowed to be enabled through the unnecessary felling of 'inconvenient' protected trees.

The Parish Council has also expressed significant reservations about the whole of this application, and especially in relation to T1 (Monterey Pine) in that as the suggested reason for removal is purely for Health and Safety reasons, why the applicant did not negotiate for the interim removal of deadwood whilst the contactors were originally on site with a cherry-picker. Obviously this expressed Health and Safety concern does not extend very far - certainly not as far as any branches and several weeks.

The lack of root area protection fencing and the proximity of existing fencing to protected tree roots which is based on earlier erroneous landscape planting schemes (as effectively acknowledged by council officers) shows a predetermination on the part of the original applicant, in 2011, with the 'approved' landscape plan to fell these trees despite their own protestations to the contrary at the planning appeal hearing.

With the greatest of respect, we would also draw the attention of the Council to: -

1) According to the DCLG published guidance (Protected Trees: A Guide to Tree Preservation Procedures, April 2012) Point 21 states.

"Can I carry out work on protected trees which are in the way of proposed development? You can only cut down or cut back protected trees if they are DIRECTLY in the way of development which is about to start and for which detailed planning permission has been granted." [my emphasis]; and

2) 'Main changes to the tree preservation order system in England from 6 April 2012: Exemptions from the need for obtaining consent

(DCLG) "Under the tree preservation order regulations that have been replaced, there were

several circumstances where consent from the local planning authority was not required to carry out work to protected trees. This included trees that were dying, dead or had become dangerous. The broad scope of this exemption presented some uncertainty for those wanting to carry out what they believed to be exempt work. The new regulations omit "dying" from the exceptions. They also introduce an exemption for removing dead branches from a living tree" '

Kind Regards
Duncan Murray
Parish Clerk
Curdrige Parish Council
01489 787312

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