



Mr N Wilson
Beechwood Tree Care Ltd
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Frances Martin
Executive Director for
Economic Growth and
Neighbourhood Services

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Our Ref: 220564/TPO
Your Ref:

Direct: ☎01189 372440
sarah.hanson@reading.gov.uk

8th June 2022

Your contact is:

Sarah Hanson, Planning

Dear Mr Wilson,

RE: PROPOSED FELLING OF ONE LIME TREE AT 7 PORTWAY CLOSE, READING - SUBJECT TO TREE PRESERVATION ORDER NUMBER 72/01.

Thank you for your application of 14th April 2022, regarding the above.

This application is a repeat of an earlier application, ref: 210779, to fell the mature Lime tree (T1) within the rear garden of 7 Portway Close which was refused on 14th July 2021. I have been advised by the property owner, Mr. Szmolka that the deadline was missed to appeal this refusal. A new application has therefore been submitted to review the previous decision and to provide the opportunity for an appeal to be submitted, if necessary, to the Planning Inspectorate on behalf of your client, Mr. Szmolka.

In support of your application to fell, you have carried forward the following documents from the previous application which are as follows:

- A specification of works, reasons for works based on arboricultural advice from Neil Wilson
- Location plan
- Two photographs - one from the street and one close up of the lower stem (above decking) and a (relatively small) fallen branch

A Structural report titled '7 Portway Close - Structural Report - Proposed Tree Removal' from Michael Aubrey Partnership, Structural Engineering Consultants, has not been resubmitted and therefore the structural issues raised in your previous application will not be considered under this application.

Planning history of relevance cases from a Local Planning Authority perspective are the following:

- 141696/HOU - planning application for a single storey extension - withdrawn, partly on tree grounds
- 170055 - planning application seeking confirmation that a specific proposed rear extension fell under 'permitted development' - this was confirmed.
- 170343 & 170368 - Building Control applications, both dealt with by an Approved Inspector, not RBC Building Control, hence RBC have no record of foundation specifications.
- 200712/TPO - approval given to reduce the tree and crown lift with informative attached regarding 170055 and advice to cut back the decking away from the base of the tree.
- 210779/TPO - Application to fell the tree refused on 14th July 2021.

In response to this new application 220564, the Council's appointed Arboricultural Consultant visited the property on 26th May 2022 and viewed the Lime from the rear garden of 7 Portway Close. The tree's base remains obscured by the decking which is now in direct contact with the base of the tree and likely to impact on the tree's future growth. Due to the presence of the decking, which has not been cut back around the trunk as recommended in our previous correspondence in both 2020 and 2021, it is not possible to view the base of the tree to check for any defects or presence of fungi.

The tree has put on dense epicormic growth since the previous application. Foliage density and vitality indicates the tree is in reasonable physiological health. The tree canopy covers much of the garden. Tree debris - leaves, small twigs - were noted on the decking.

The following points were made in the decision letter 210779 and are repeated here as they remain pertinent to this application:

For clarity, in relation to 170055, the agreement given was purely that planning approval was not required for the rear extension proposed. However, Permitted Development Rights do not override a TPO hence liaison should have taken place to agree the ground works with the Natural Environment Team - this was not done, hence any roots severed was a contravention of the TPO. In addition, the decking has been installed without liaison with the Natural Environment Team hence any root damage that occurred for the installation of this would also be a contravention of the TPO. I am aware that these works were undertaken by the previous owner.

The Lime tree in question has been protected since 1964, prior to the houses in Portway Close being constructed; the most recent TPO being made in 2001 as a result of the review of the original TPO. It was unfortunate that the house was built without allowing greater space for the future growth of the tree. The concern over the relationship between the tree and the house / garden has exacerbated by the decision of the then owner in 2017 to build a rear extension, thereby bringing living accommodation closer to the tree and reducing the size of the garden in which it sits further. This was then worsened by the installation of decking meaning the Lime is now within a less than ideal decked area, rather than a larger garden, as it was.

In amenity terms, the tree remains highly visible in the surrounding area due to its significant height, being considerably higher than the roof of the houses, and can be seen from Littlecote Drive to the west, A4 Berkeley Avenue to the south and within Portway Close. It makes a significant contribution both individually and to the general verdant character of the area.

In determining this, and any application to fell, the Council must consider whether the reasons put forward in support of felling outweigh the loss of amenity that would result from its felling. The Council considers that there is no reasonable opportunity for a replacement specimen tree to be planted in the immediate area in order to mitigate the removal of the tree. Therefore the removal of the tree would result in the permanent loss of tree canopy cover at Portway Close. At the meeting on 26th May 2022, Mr. Szmolka offered to provide a tree for replacement planting elsewhere in the Borough. Even if this were to be agreed with the Council's Parks Team (with additional costs for ongoing maintenance until the tree is established), the removal of the Lime would still result in the permanent loss of tree canopy cover within this dense residential area which cannot be readily mitigated.

In relation to the 'Specification for works' document, I note the various arguments you have put forward to support the felling on arboricultural grounds, dealing with the condition of the tree, characteristics of the species, appropriateness for its location, nuisance factors, dismissal of alternative works, risk and safety concerns from the applicant. These are all noted.

The Borough Council is aware from documentation submitted with the earlier application 210779 that a traditional concrete trench foundation was used for the rear extension, and this is deeper than 0.9m. It is inevitable that roots from the Lime tree (approximately 4m from the rear elevation) will have been cut to build the extension - disregarding the TPO status of the tree (from a legal perspective) and without any regard for its future health, which the current owner is having to consider. In addition, the addition of the extension shows poor judgement, especially given the concerns previous occupiers & owner raised regarding the suitability of the tree's location, heightened by this extension. However, Mr & Mrs Szmolka bought the property with this extension and decking in place and with the tree being evident and protected. The acceptability of the tree should therefore have been considered in purchasing the property. A recent appeal dismissal (ref APP/TPO/E0345/8541), also relating to a mature Lime tree in close proximity to a house, addressed this particular issue, with the Inspector stating (in para 14):

'I agree that the tree is the dominant feature at the front of the property. However, it is likely that the relationship between the tree and the house and garden, given its maturity, would have been a similar one when the property was purchased and occupied. It is likely that this relationship, the protected status of the tree and its future growth would have been a consideration at that time for the appellant'.

You have a copy of this decision already, as you were the agent for that application as well.

Further to the Council's most recent visit on 26th May 2022, I have considered the previous evidence put forward in support of the felling and more recent information gathered during the site visit. Given the significance of the tree in question and that the situation with the tree and house/decking has not changed since purchase of the property, or since this matter was considered last year, the felling is REFUSED. The reasons put forward are not considered to outweigh the significant amenity value that would be permanently lost from the felling of the tree.

Lesser works have been consented to below to prune back the canopy and create reasonable clearance to the adjacent outbuilding whilst preserving the health and natural form of the tree.

The following works are approved subject to the conditions below:

T1 (Lime)

- Crown lift epicormic growth to give 5m clearance above ground level (decking level).
- Reduce radial spread by up to 2m back to suitable reduction points
- Reduce canopy height by 3-4m using nearest suitable reduction points to leave a natural looking canopy form.

Conditions

1. All tree surgery shall be in accordance with BS 3998: (2010) Tree Work - Recommendations.
Reason: To ensure that all works are carried out in an acceptable arboricultural manner
2. The approved canopy reduction shall be undertaken in mid-late Summer (July - September) when the tree's energy reserves are at their height or during the Winter months of December - January during the period of dormancy.
Reason: Taking into account the tree's phenological cycle and in order to avoid any unnecessary detriment to the tree as a result of the pruning work.
3. Climbing spikes shall not be used whilst undertaking any form of works on living trees, except on trees to be felled.
Reason: Spikes can cause extensive long-term damage

Informatives

1. You are advised that, in accordance with Part 4, 17 (4) of The Town and Country Planning (Tree Preservation)(England) Regulations 2012, this decision is valid for one pruning operation (as per the approved specifications) to be undertaken within two years from the date of this notice, after which the consent lapses and a new application will be required.

2. Removal of dead or dangerous wood: This does not require the formal consent of the Council. However written notice must be given 5 working days in advance of removing dead wood. Where a branch is deemed to be 'dangerous', i.e. where works are 'urgently necessary to remove an immediate risk of serious harm', you are required to give notice to the Council 'as soon as practicable after the works become necessary'.
3. Disturbance of wildlife: It is an offence under the Wildlife and Countryside Act 1981 (as amended) to disturb roosting bats or nesting birds. It is advisable to consult your tree surgeon/consultant to agree an acceptable time for carrying out any work. Wildlife and habitat controls are administered by Natural England who can be contacted on 0300 030 6000
4. The decked area is now directly in contact with the base of the tree. As you were advised previously, this causes two main problems in that i) it prevents a full inspection of the tree and ii) the decking prevents the natural widening of the trunk and which can cause damage and deformities to the trunk of the tree. Essential works are strongly advised to cut back the decking now to clear the tree's trunk in order to enable a fully visual inspection of the tree's base and buttresses and to create room for future tree growth.

If you are aggrieved by the refusal of consent to fell T1 - Lime or against any of the conditions attached to the approved works, you may appeal to The Planning Inspectorate (PINS). Because of coronavirus (COVID-19), you currently can only make a planning appeal online. You cannot currently apply by post.

For more information go to:

<https://www.gov.uk/government/publications/tree-preservation-order-appeal-form>

Telephone: 0303 444 5570 or e-mail it to:

treeandhedgeappeals@planninginspectorate.gov.uk

Your appeal should be received within one month of receipt of this decision or any such longer period as the Planning Inspectorate may allow.

If you suffer any loss or damage as a result of this refusal of consent, you may be entitled to recover compensation from the Council. If you wish to make a claim you must do so within 12 months from the date of this decision (or, if you appeal to the Secretary of State, within 12 months from the date of his decision). Claims should be made in writing to the Insurance Section, Reading Borough Council, Civic Centre, Bridge Street, Reading, RG1 2LU.

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

Yours sincerely,

Sarah Hanson

Sarah Hanson
Natural Environment Officer

C.c. Levente Szmolka, 7 Portway Close, Reading RG1 6LB