

TOWN & COUNTRY PLANNING ACT 1990 (As Amended)

**EASTLEIGH BOROUGH COUNCIL**

**ARBORICULTURAL APPEAL STATEMENT**

In connection with an appeal by:

**Patricia Duell**

Against the refusal of permission by:

**Eastleigh Borough Council**

for the tree located at:

**Land to the North of 21 Silver Birches, Bursledon, SO31 8LD**

|               |                                                  |
|---------------|--------------------------------------------------|
| PINS Ref:     | APP/TPO/W1715/9446                               |
| LPA Ref:      | T/22/93846                                       |
| Statement of: | Christopher Stringer – Arboricultural Consultant |
| Date:         | 23/05/2023                                       |

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*Please note: references are made within this statement to documents submitted by Eastleigh Borough Council to the Planning Inspectorate in relation to the aforementioned appeal. This statement should be read in conjunction with those documents.*

## 1. Qualifications and Experience

- 1.1. My name is Christopher Stringer. I am an arboricultural consultant, retained by Eastleigh Borough Council since January 2017. I manage the Tree Team and carry out the functions of the Principal Tree Officer. I am qualified in arboriculture to Level 7 (MSc Arboriculture and Urban Forestry) and hold other professional qualifications, including: Professional Tree Inspection, Diploma in Arboriculture (Level 4) and VALID Tree Risk-Benefit Assessment.
- 1.2. I am instructed by the Planning Department of Eastleigh Borough Council (the Council), as the Local Planning Authority (LPA), to provide a statement relating to the appeal in relation to trees protected under a Tree Preservation Order.

## 2. The Appeal Site and Tree

- 2.1. The subject tree is a mature oak (*Quercus robur*) located on land owned and managed by the Council. It is situated within a vegetated verge, set between an area of hand standing (contiguous with Foundry Crescent) to the north, and the private, residential garden of no. 21 Silver Birches, to the south.
- 2.2. The tree is the most westerly specimen of a loose group of trees located within the public open space to the east, although its crown is distinct from its closest neighbour. It has a crown that is consistent with an open-grown tree – spreading all directions equally, including over the private, residential gardens of no. 21 and no. 19 Silver Birches.
- 2.3. The tree is identified as T8 within Tree Preservation Order number 368A, served in April 1997 and confirmed in May 1997. (*Please see appeal documents: “2 (e) TPO (2)”;* “2 (e) TPO Schedule 1 & Map (1)”; *and “2 (g) Committee minutes confirming TPO”.*)
- 2.4. Because the tree is owned and managed by the Council, it is subject to safety inspections. Two “reactive” inspections (*i.e.* they were not planned as part of an inspection schedule) occurred in 2022 by a Hampshire County Council assessor, acting on behalf of the Council. These two inspections were at the request of the appellant, principally because of reported falling debris.
- 2.5. In June 2022, the assessor found that the tree was typical of its type and age, with an identified piece of deadwood (rated as “low risk”). A second inspection in September 2022, by the same assessor, found the tree in much the same condition, save for the one piece of deadwood, which had now gone.
- 2.6. The tree is considered to have a high amenity value. It is a large, prominent specimen making it a significant feature to the public realm of Foundry Crescent, Silver Birches and the public open space. Further, it can be seen from other public

viewpoints, such as Cedar Close and Woodlands Way. The tree is of good condition, with a long potential retention span.

- 2.7. Therefore, the tree scores highly in the amenity assessment of the Tree Evaluation Method for Tree Preservation Orders (TEMPO) – the methodology the Council use to assess suitability of trees for protection by Tree Preservation Orders (TPO).

### 3. Tree Work Proposal and Stated Reasons

- 3.1. As part of the TPO application (reference T/22/93846) the appellant stated they wished to “*substantially*” cut back overhang (*i.e.* southern portion of the crown) (*Please see appeal document: “2 (c) Application Form”*). For the application to be validated, it was necessary to quantify the length of reduction proposed. Following an email, the appellant stated they proposed to reduce the overhanging branches by 3.5 to 4 metres in length.
- 3.2. As the greater length is possible, the formal tree work proposal was recorded as: “*1 no. Oak (tree to the side of 21 Silver Birches) - Cut back all branches overhanging properties 19 and 21 Silver Birches by up to 4 metres.*” (Henceforth known as the proposal.) (*Please see appeal documents: “Application Notification Letter” and “2 (d) Final Decision Notice”*.)
- 3.3. As per Section 16(1)(c)(iii) of the Town and Country Planning (Tree Preservation)(England) Regulations 2012 (henceforth known as the TPO Regs. 2012), an applicant must provide a statement of reasons for a proposal.
- 3.4. The appellant’s reasons for the proposal were that they cannot “*utilise*” their garden due to debris from the tree. Further, it was noted that within the TPO application form, the appellant also made reference to a recently fallen branch and had selected “Yes” to the question regarding whether the applicant had a concern the tree may break or fall. (*Please see appeal document: “2 (c) Application Form”*)
- 3.5. When selecting “Yes”, the TPO application form states: “*If Yes, you are required to provide written arboricultural advice or other diagnostic information from an appropriate expert.*” It is also stated within Section 16(1)(c)(iv) of the TPO Regs. 2012 that an application must contain “*appropriate evidence...in relation to tree health or safety*”.
- 3.6. The appellant did submit photographs showing the spread of the tree and one in which a piece of deadwood could be seen lying on the ground. (*Please see appeal document: 2 (c) 20220920\_155744.*)

### 4. Council Response

- 4.1. On the 25th October 2022 the site was visited by arboricultural consultant, Charlotte Holloway, in order to assess the TPO application. Ms Holloway is

employed by Hampshire Country Council, with whom the Council contract to conduct TPO application site visits and assessments. She is qualified in arboriculture to Level 4 (DipArb L4) and holds other professional qualifications, including: Professional Tree Inspection, Quantified Tree Risk Assessment and VALID Tree Risk-Benefit Assessment.

- 4.2. At the time of site visit, it was found that the tree had good vitality and there were no issues with conflict (*e.g.* obstruction of use of the gardens). The tree was considered to be exhibiting normal lateral spread. (*Please see appeal document: "2 (j) Delegated Officer Report".*)
- 4.3. As per the Government's Planning Practice Guidance, the Council, when considering an application, should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it. It was judged that the amenity would be detrimentally impacted by the proposal, both in the short term and the long term.
- 4.4. In the short term, immediately following enactment of the proposal, the tree would have a "*sided up*" appearance, where-by the natural outline and shape of the tree would be negatively impacted and, thus, it was assessed that the amenity provided would be negatively impacted. This would be a direct result of the amount of crown removed as per the proposal. (*Please see appeal document: "2 (j) Delegated Officer Report".*)
- 4.5. In the longer term, there were concerns that the volume of photosynthetic material removed (*i.e.* leaves) would negatively impact the energy production of the tree. Energy, created within the leaves, is used for growth and defence against pathogens. In addition, the resulting overall pruning wound area would likely exceed guidelines set out in British Standard 3998:2010. The greater the pruning wound area, the greater the infection court for decay pathogens to enter. (*Please see appeal document: "2 (j) Delegated Officer Report".*)
- 4.6. These two elements are interlinked and could result in a greater detrimental impact on the physiological condition of the tree than the sum of their parts and, thus, the long-term amenity provided by the tree. Both the volume of photosynthetic material lost and the pruning wound area are a direct result of the amount of crown removed as per the proposal.
- 4.7. The justification for the proposal was principally based on debris (seasonal nuisance). Seasonal nuisance is taken to mean leaves, fruit, blossom and small twigs (either dead or alive). Seasonal nuisance is a natural characteristic of healthy trees and is considered an unavoidable consequence of living in close proximity to them. Whilst there is a subjective burden on residents living close to trees, it is not considered significant in the wider context, and does not outweigh impact to amenity.

- 4.8. In addition, it was noted by Ms Holloway that the proposal would not result in a complete abatement of the issue, given the tree's size and the location of the residential properties in relation to the tree and others in the area.
- 4.9. An additional point raised by the appellant was the risk from falling branches. There was insufficient information within the TPO application as the appellant did not provide written arboricultural advice or other diagnostic information from an appropriate expert to demonstrate the risk was elevated above normal levels. It was noted that the application did contain images purporting to show a fallen branch (*please see appeal document: 2 (c) 20220920\_155744*), but this was deadwood, and its removal is exempt from the need to obtain consent for its removal, as per Section 14(1)(b) of the TPO Regs. 2012.
- 4.10. Overall, it was considered that the proposal was both excessive and unjustified. However, the appellant's public representation and obvious, genuine concern regarding the perceived risk were carefully considered as part of the decision-making process. As a result, it was felt that lesser work may help to alleviate some of the debris and perceived risk, whilst not having as a significant detrimental impact on the amenity and long-term health. To that end, a two-metre reduction was considered reasonable. The Council consented to: *"1 no. Oak (tree to the side of 21 Silver Birches) - Reduce lateral branches to the south of the canopy from branch tips by up to 2m. Cut sizes must not exceed 75mm diameter."* (*Please see appeal document: "2 (d) Final Decision Notice".*)

## 5. Conclusion

- 5.1. The proposal to cut back all branches overhanging properties 19 and 21 Silver birches by up to 4 metres was refused because it was considered excessive and would be of detriment to the health and appearance of the tree.
- 5.2. It was considered excessive because, as a direct result of the amount of crown removed as per the proposal, there would be an immediate and long-term impact on amenity through the loss of its natural, balanced appearance; the loss of a significant volume of photosynthetic material; and an overall pruning wound area that would likely exceed guidelines.
- 5.3. The Council considered that, on balance, the stated reasons for the proposal did not justify the impact upon amenity. The reasons were either related to the natural characteristics of a healthy tree or to an issue that the appellant was entitled to mitigate at any time, without the need to notify the Council.
- 5.4. Because the reason for refusal was due to the proposal being considered excessive, and in consideration of the appellant's concerns, the Council consented to a two-metre reduction, which would have less impact on the amenity of the tree.