

To the Chairman and Members of the  
PLANNING REGULATORY BOARD

Date 25 April 2019

Report of the Director of Planning and Regeneration Service

ITEM NO.    SUBJECT

1            Proposed Tree Preservation Order No 5, 2018 – The Manorial  
Barn, Chaff Close, Whiston, Rotherham, S60 4JH

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Item 1

**Proposed Tree Preservation Order No 5, 2018 – The Manorial Barn, Chaff Close, Whiston, Rotherham, S60 4JH**

**RECOMMENDATION:**

**That Members confirm the serving of Tree Preservation Order No. 5, 2018 without modification with regard to the Oak tree which is the subject of this report, situated on land at The Manorial Barn, Chaff Close, Whiston under Section 198 and 201 of the Town and Country Planning Act 1990.**



**Background**

The Oak Tree is protected by Whiston Conservation Area.

A section 211 notice to prune the oak tree was submitted under application reference RB2018/1532. The intended work was to crown lift to between 4 and 5 metres, top canopy and remove branches over hanging thatched roof.

It was considered the the proposed work to the tree is likely to cause significant damage to the tree's structure , are vague and open to interpretation and will result in a loss of amenity to the conservation area. As such, a Tree Preservation Order was placed on the Oak tree under a new TPO No. 5 2018 on 2 November 2018 and all interested parties notified.

The purpose of this report is to assess the objections received and determine whether the TPO should be confirmed or not.

The government's advice in the National Planning Practice Guidance (NPPG) states that,

*“When deciding whether an Order is appropriate, authorities are advised to take into consideration,*

- *what ‘amenity’ means in practice*
- *what to take into account when assessing amenity value*
- *what ‘expedient’ means in practice*
- *what trees can be protected and*
- *how they can be identified*

*When granting planning permission authorities have a duty to ensure, whenever appropriate, that planning conditions are used to provide for tree preservation and planting. Orders should be made in respect of trees where it appears necessary in connection with the grant of permission”.*

## **Objections**

A representation has been received from Whiston Parish Council objecting on the following grounds –

- The tree is only to be pruned and not felled.
- Concerns that RMBC have not identified structural issues in the tree.
- Concerns that the tree will damage the adjacent Grade II\* Listed Building through direct damage.

One Right to Speak request has been received.

## **Comments from Tree Service Manager**

The Tree Service Manager has considered the objection raised and has commented as follows:

The Tree is to be pruned and not felled

Tree Preservation Orders are created to stop the poor management of trees that will reduce the amenity of the tree and, if they are stood in a conservation area, the amenity of the conservation area.

Pruning works that have the potential to damage a tree's structure, affect its good health and destroy its natural appearance can also be judged as being poor management that reduces a tree's amenity value. It is not just the felling of a tree that warrants the use of a tree preservation order.

In this case the works specification included in the conservation area section 211 notice was:

*"1 x oak tree (t1) crown lift to between 4 and 5 metres, top canopy and remove branches over hanging thatched roof"*

The specification starts well and is clear in its intent to remove branches growing below a maximum height of 5 metres; however the second half of the specification is very poor and not descriptive in its intentions.

British Standard 3998:2010 Tree Work – Recommendations (arboriculture's industry best practice guide to tree management), section 7.7.2 states that a work specification should:

*"be accurate and clear, so that the desired result is achieved. To avoid ambiguity, the specified end result can be stated either as the tree-height and branch-spread which are to remain, or the average equivalent in branch length (in metres)."*

The proposed works do not provide such detail.

To "top" a tree or "topping", whilst used in the original TPO legislation to describe tree pruning has for a long time been regarded as an enormously damaging pruning practice within the arboricultural industry that is indiscriminate in its scope and does not take into account a tree's form, health or tree biology.

BS 3998 describes topping as follows:

Section 3.28

*"Topping - Removal of most or all of the crown of a mature tree by indiscriminately cutting through the main stem(s). NOTE This is not the same as pollarding"*

Section C.4.1

*"Extreme crown reduction, **topping** and re-coppicing  
It is generally undesirable to wound trees so severely that major dieback or extensive decay are likely to ensue. Accordingly, severe crown reduction, which at its*

*most extreme equates to topping, should be used only as a last resort for retaining a valuable tree which would otherwise pose an unacceptable risk to people or property, or would be susceptible to loss due to structural collapse.”*

Given the above it is not possible to judge from the specification what works were proposed for the tree. The description could result in massive sections of this prominent tree being removed and disfiguring its structure and reducing its amenity levels.

#### Tree's structural condition

The tree was inspected at the time of the conservation area notification using a visual tree assessment from ground-level.

The inspection noted that there was a large wound to the tree's central branch; however beyond this the tree's health and structure were assessed to be good with only minor issues that could be managed through careful pruning if required.

The wound to the tree's central branch is most likely as a result of a lightning strike. Around this wound there are now several significant branches developing around the deadwood of the wound. However associated with these branches there is significant wound wood development around the wound, which indicates that the tree is responding well to the damage. If this section of the tree was managed delicately then there should be no reason that the tree can't continue to live a long, safe life.

Part of this assessment is based on the tree's species. Oak produces strong, slow growing wood that can be capable of supporting a large wound. Had the tree been a different species that is poorer at the compartmentalisation of a wound (e.g. birch, poplar or willow), then the assessment would have been quite different.

The works requested in the conservation area notification are therefore potentially excessive in nature and not justified.

#### Tree's potential to damage the adjacent building

The creation of the TPO is not intended to stop all works from happening to the tree (and nor is it possible under the TPO legislation to stop all works) but just to stop poor works that would affect the tree's long-term health and safety and its ability to provide good amenity to the local area.

Therefore should works be applied for to prune branches to allow clearance underneath, and away from the neighbouring building then they will most likely be consented to. If works are also applied for to reduce the weight of branches affected by the wound on the central leader that also allows continued good performance of those branches then they too are likely to be granted consent. However if excessive, unjustified and non-specific works are applied for then they are likely to be refused.

An example works specification that would likely be granted consent that would maintain the tree's good amenity is:

Selectively prune branches to provide a maximum of 5 metres clearance above ground-level and a maximum radial clearance of 2 metres from adjacent buildings.

Selectively prune branches growing out of the central leader affected by the lightning strike wound by a maximum of 1 metre, with neighbouring branches pruned to blend with the remaining canopy line.

## **Conclusion**

The tree is estimated to be 180-190 years old is likely to have been a key feature in the Whiston street scene for the majority of that time given its prominent location. The rationale for the description of the proposed works have not been clearly presented and therefore pose a risk of excessive pruning taking place and destroying the excellent amenity of this tree.

It is therefore considered that the objection to the Order have been carefully considered and that the Order has been made in accordance with Government guidelines. In this instance, it is recommended that the Order is confirmed without modification.