

Confirmation of Tree Preservation Order (No 09/2021) – Two English Oak at 25a Upper Bourne Lane, Farnham, GU10 4RG

Meeting: 26/1/2022

Ward: Farnham
Case Officer: Ian Brewster

RECOMMENDATION Tree Preservation Order 09/2021 be
CONFIRMED without modification.

1. Purpose and summary

To consider the objection to making of a Tree Preservation Order (TPO) 09/2021 and to determine whether the Order should be confirmed, with or without modification. The report has no direct resource implications. There are environmental benefits in retaining the trees which merit special protection.

2. Recommendation

It is recommended that the Tree Preservation Order 09/2021 applying to two trees on land at 25a Upper Bourne Lane, Farnham, GU10 4RG be confirmed without modification.

3. Reason for the recommendation

In the interests of conserving the character and amenities of the area by retaining statutory control over the future pruning or felling of mature trees.

4. Background

4.1 The Tree Preservation Order (TPO)

The Tree Preservation Order (TPO) 09/2021 was made on 27th July 2021. It affords protection to two English Oak trees at 25a Upper Bourne Lane, Farnham, GU10 4RG.

The Tree Preservation was made on two English Oak trees both of good form, located along the frontage of the property and adjacent to the highway. of Upper Bourne Lane.

Due to the species, location and potential impact of these trees in the landscape, when balanced with existing canopy cover in the locality, it is desirable for both trees to be retained and should be afforded protection against poor pruning/removal. Images of both trees as viewed from Upper Bourne Lane including an aerial location plan are provided below.

We have been informed that the property was up for sale, and there is known to be general development pressure in this locality of houses being extended posing a threat to the longevity of mature trees in the street. The threat is due to a change in ownership. It was therefore considered expedient in the interests of public amenity to make the trees subject of a Tree Preservation Order.

The trees are considered to be significant mature specimens in the highway environment and contribute positively to the landscape character of the area. The protection afforded by the TPO would prevent indiscriminate pruning or removal. The Council has the opportunity to protect the trees in the interests of public amenity of the area. In light of development pressure on this street it is considered to make the trees subject of a TPO.



Picture 1. English Oak T1 looking south from the highway, the largest of the two trees located behind the hedge frontage of 25a Upper Bourne Lane.



Picture 2. English Oak T2, as seen from the public footpath. The tree is situated adjacent to the private driveway of the above property.

4.2 Relevant development planning policy and legislation

In accordance with Policy NE2 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018 the Council will seek, where appropriate, to maintain and enhance existing trees within the Borough. In accordance with retained Policy D6 of the Waverley Borough Local Plan 2002 the Council will protect significant trees and groups of trees by using Tree Preservation Orders. In doing so the Council will have regard to:

- a) tree condition
- b) contribution to the public amenity of the area and appropriateness of the trees to their surroundings and amount of tree cover in the area
- c) the historical significance of the trees and/or rarity of the species

The Council will encourage good management of important individual and groups of trees. Where work is proposed to protected individuals or groups of trees the Council will take account of public safety, retention of amenity, historic and wildlife value. Where appropriate, new tree planting will be required to replace those which fail or are removed.

Under Section 198 of the Town and Country Planning Act (1990) the Local Planning Authority in pursuance of its powers has the ability to make trees subject of preservation orders in the interests of amenity when the threat or loss of such trees may result in a negative impact upon the character of the local landscape.

The trees concerned were assessed in accordance with the Council's adopted Tree Guidelines (2012). The trees are considered under threat of being damaged or removed by new property owners. It was therefore considered expedient in the interests of public amenity to make the trees subject of a Tree Preservation Order. This safeguards the trees by exercising a level of control over their removal and/or future works that could significantly impact upon their visual amenity and life expectancy. The Order has been made in recognition of tree size, age, species, position and contribution to the visual amenity and character of the landscape.

Aerial view (showing trees located along the Upper Bourne Lane highway)



4.3 Objection to the confirmation of the TPO and Council Officer response

A letter of objection was received from the tree owner dated 5th November 2021. The grounds of the objection have been extracted and the tree officer has provided a response in bold below each objection, as follows:

- The TPO has been applied for by someone not responsible for or affected by either T1 or T2
Tree owners tend not to submit requests to TPO their own trees so this statement is not unusual.

•The TPO has been applied for by someone with no direct relationship or consequence to T1 or T2

Tree owners tend not to submit requests to TPO their own trees so this statement is not unusual.

•The purchase of 25A was made on the understanding and legal declaration that there was no TPO applicable to the property

A TPO was served upon the property with the trees and neighbouring properties which is a requirement and part of administering a Tree Preservation Order. Accordingly no maladministration has occurred as far as the Local Planning Authority are concerned.

•These trees have not been subject to a TPO since I moved into No. 29 over 20 years ago and I see no reason why this should change due to the sale of No. 25A or the previous owner leaving.

We were contacted by a resident who had expressed a concern that the new tree owners were likely to fell both trees to make way for development.

•The trees will benefit from encouraging myself and [REDACTED] to remedy overdue maintenance left by the previous owners [REDACTED] inaction over many years.

A TPO does not prevent tree management if carried out in accordance with Planning Conditions associated with good industry practice i.e. British Standards BS3998.

•Prohibiting self-management with a TPO could serve to deter responsible maintenance and informed local decision making•T1 and T2 have no discernible 'special' amenity value over and above any of the other numerous beautiful trees in Upper Bourne Lane

Both trees are clearly visible from the highway with good health and visual amenity and regarded as significant features of the local landscape. Therefore they should be afforded protection which the TPO would provide.

•There are no other TPO's applicable in Upper Bourne Lane to my knowledge

There are several TPOs within properties along Upper Bourne Lane.

•Lack of maintenance of T1 and T2 by reflects the overall wilding of 25A by the previous owner [REDACTED]

'Wildling' does not prevent appropriate tree maintenance from being carried out by new tree owners.

•The new owner should maintain full responsibility for these trees without restrictions in force

The TPO does not prevent the pruning and maintenance of trees where there is a need and carried out to an accepted standard.

•Centralised control over T1 and T2 is less efficient and is impractical compared to decisions made by the owners of properties related and affected by these trees

Trees afforded protection by a TPO help conserve their natural shape and good overall health without compromising their physiology. There are

practical benefits to maintaining trees at good industry standard which cannot otherwise be enforced if unprotected. Unless urgent, applying for work to TPOd trees can take up to 6 weeks for the Council to determine.

4.4 Officers' response

The trees are considered to make a positive contribution to the local landscape with significant future longevity and contribution to public amenity. Damage to, or future removal of both trees would have a negative impact on the character of the area and public amenity.

The tree officer has viewed the site and considered the objections none of which are considered overriding to prevent the TPO from being confirmed.

The Town and Country Planning Act 1990 places a duty on the local planning authority that 'if it appears expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'. The Act does not define 'amenity' however, it is generally accepted that this appears to mean 'the quality of being pleasant or agreeable'. Local Planning Authorities should be able to show that a reasonable degree of public benefit would accrue before a TPO is made or confirmed.

The trees form part of the townscape character and retaining a level of control over both current and future desires to prune or fell the trees is considered a reasonable approach to conserving and maintaining public amenity and the character of the area in light of the new owners desire upon their land.

4.5 Conclusion

It is concluded that the objections raised against the confirmation of Tree Preservation Order 09/2021 are not substantiated and do not override the public amenity value presented by the trees and the realistic threat to their longer term retention.

5. Recommendation

That the Tree Preservation Order be confirmed without modification.

Annexes:

- Annexe 1 – **Letter of objection**

Annexe 1

25A Upper Bourne Lane
Wrecclesham
Farnham
Surrey
GU10 4RG

Waverley Borough Council
The Burys
Godalming
Surrey
GU7 1HR

5th November 2021

Dear Mr Chudley,

I am the new legal owner of 25A upper Bourne Lane as of 20th October 2021. I am writing to object and formally appeal against the introduction of a recent TPO (09/21) impacting two oak trees (marked T1 and T2) at the front boundary of my property (when looking at the property from Upper Bourne Lane).

My grounds for this appeal;

1. The TPO was applied for by a person [REDACTED] and deliberately actioned during a phase of the property purchase when I had committed to purchasing the property but was not yet the legal owner. As such I was not party to the usual TPO notification process. Following the sale agreement and as part of the legal conveyancing my solicitor completed local searches and no TPO showed up. A TPO was also not disclosed on the property information documents completed by the previous owner. It was only much later on in the conveyancing process when another search was carried out relating to a different matter that this TPO became apparent.
2. The only persons that are affected by the two oak trees (T1 and T2) in any way, other than myself are number 25 and 29 (my two neighbours either side of 25a). I cannot see how anyone else is remotely affected; as such, I cannot understand the intention or the reason why someone has felt the need to initiate this TPO on trees on my property, other than maybe some emotional attachment.
3. I find it unfair and incomprehensible that someone completely unaffected by and with no link or relation to the property or the two trees in question can impose an order on my property and I have no say in the matter.
4. There must be in excess of 50 oak trees of similar size and type on various properties in the immediate vicinity of Upper Bourne Lane.
 - Why do these two trees on my property specifically warrant a preservation order?
 - Why are these of any more significance or value?
 - Why are these two trees at any more risk than other trees on this lane?
 - What action of mine has suddenly put these trees at risk that they need protecting by a

- Why are these two trees at any more risk than other trees on this lane?
 - What action of mine has suddenly put these trees at risk that they need protecting by a TPO?
 - These trees are not in a preservation area.
-

If the TPO on my two trees is held up then I must ask the council to protect all the other trees by a similar order; as all the other oak trees on properties off Upper Bourne Lane are also equally as important to the environment and are part of the surrounding and therefore should also be preserved.

5. I would also like to benefit from and retain the same rights the previous owner had for many years and would like to be treated in the same way as many of my neighbours on Upper Bourne Lane. I should be given the same controls over the trees on my property to maintain them in a responsible and environmentally friendly way. A TPO will only deter me from carrying out any required maintenance to avoid time-consuming administrative tasks.
6. If given the control, I would like to carry out maintenance work on both of these trees to; stop further damage to my garage caused by overhanging branches and increase light into my property (looking out of my property the sun rises from behind T1 and light is blocked up by T1 up until at least mid-day).
7. I have read the appeal letter sent to you by [REDACTED] and can confirm that I wholeheartedly agree with all the points raised and support it fully. I have discussed these points with N [REDACTED] and we have mutually agreed that we will together decide the best course of action with regards to the maintenance and upkeep of these trees.

I believe these TPOs are unnecessary, unjustified and therefore should be reconsidered.

I look forward to hearing from you in due course and thank you for your consideration in this matter.

Yours sincerely,

[REDACTED]