

PLANNING COMMITTEE

DATE OF MEETING **13th JANUARY 2021**

TITLE OF REPORT **OBJECTION TO ORD/20/00007 “THE MILD MAY
COURT TREE PRESERVATION ORDER, 2020”**

REPORT OF **HEAD OF PLACE**

1.0 Introduction

- 1.1 The Committee is asked to consider one email of objection which relates to this Tree Preservation Order (TPO). The TPO protects a lime and a horse chestnut located in rear gardens of properties in Mildmay Court. This TPO replaced ORD/20/00002 which had an error on the Site Plan which rendered it ineffective. The reason for the making of the TPO was because the Council received information that the trees may be at threat either from excessive pruning or felling. As it transpired, the horse chestnut had recently been subject to crown reduction but this had been carried out with care and in accordance with good arboricultural practice. Regardless, it was considered that both trees provide amenity in terms of their size, life expectancy and prominence in the street-scene.

Refer to Appendix 1 for the TPO plan showing the position of trees, Appendix 2 for the Schedule and Appendix 3 for photographs.

- 1.2 The objection to this Order was made by:

- **The resident at 5 Mildmay Court**

2.0 Recommendation

That TPO ORD/20/00007 be confirmed.

3.0 The Trees

- 3.1 The subject trees are a lime (T1) and a horse chestnut (T2). Both are located in rear gardens of Mildmay Court as per the TPO Plan (Appendix 1). Both are mature specimens, in normal physiological condition and with no identified structural defect. The trees had previously been part of a wider group spanning the rear gardens of 1-7 Mildmay Court but all others have been removed in the last ten years. This is partially understandable as they are large trees in relatively small rear gardens. Crown reduction work has recently taken place with the horse chestnut, T2 and similar work could reasonably be carried out to T1 (subject to a grant of TPO permission). The form of the lime has been influenced by previous competition with neighbouring trees; it is tall and slender as opposed to having a broad crown.

4.0 Summary of objections

- 4.1 What is to stop all trees being made the subject of a TPO, on the basis of residential amenity?
- 4.2 The protection of the said trees does not provide a sufficient degree of value or public benefit.
- 4.3 The trees in question are only visible to a few residents, they are not on a thoroughfare and the footfall of members of the public is therefore incredibly limited to only a few people. The tree is therefore not an 'amenity' to the public.
- 4.4 The trees are not of particular importance, historically, culturally or otherwise.
- 4.5 There is no nature conservation or environmental benefit offered by the trees.
- 4.6 There is no risk to the tree being felled or damaged.

Refer to Appendix 4 for a copy of the objection

5.0 Observations

- 5.1 We have a statutory duty under s198 of the Town and Country Planning Act 1990 to protect trees where it is considered expedient in the interest of public amenity. Trees and woodlands are brought to our attention in a number of ways e.g. through the development control or notifications under s211 of the same Act (Conservation Areas). On occasion, members of the public, councillors, contractors or community groups request TPO's to be made.

On this occasion, it was noted that the subject trees were the last remaining of a group spanning the rear gardens of the Mildmay Court. Please see Photograph 1 in Appendix 3 for Google Streetview images from 2010. Concerns had been raised as to the future of the two remaining trees and the impact on the amenities of the area. As a result, the Council considered it expedient, in the interest of public amenity to protect the two remaining trees.

- 5.2 We refer to the public benefit in terms of their amenity value. There is no legal definition of amenity. The Planning Portal definition makes reference to trees in its definition, stating that amenity describes "*a positive element or elements that contribute to the overall character or enjoyment of an area. For example, open land, trees, historic buildings and the inter-relationship between them, and less tangible factors such as tranquillity*".

When considering trees for their suitability for TPO, large, prominent trees in well-used public places are afforded greatest weight whereas trees out of sight of the public score the least. In this instance, the trees were noted as prominent within the local street-scene, on approach from Reyntiens View. Although both located in rear gardens, the directly back on to the road therefore most parts of the tree, bar the trunk below fence level, are clearly visible. It is accepted that this is not major public view as there are no through routes which pass the trees directly. However, there are approximately 31 houses within Reyntiens View and Mildmay Court, most of which would have to pass these trees whenever they enter the road. Public right of way No.39 runs roughly north/south from Farnham Road, through Seymour Court, across Reyntiens View and into open countryside to the south of the town. Walkers can view the trees from the east at a distance of approximately 55m. There are limited views from Odiham Cemetery. The trees can be glimpsed at greater distance from Archery Fields. This is very much a background view but which serves to break up and soften the built form.

- 5.3 See 4.2.
- 5.4 It is accepted that neither tree is of significant historic or cultural importance. The majority of trees lack these special characteristics. This does not preclude trees from meriting TPO.
- 5.5 It is agreed that neither tree is of special conservation interest; neither are ancient or have veteran features (i.e. features in common with ancient trees). However, the flowers of both species are known to be of high value to pollinators. Common and small-leaved lime are a native species of tree which is known to support a diverse range of wildlife. Aphids feed on the soft leaves and their secretions (honeydew) are attractive to bees although admittedly causes a sticky mess on anything beneath it's canopy. The aphids themselves are prey for hoverflies, ladybirds and many species of birds. Horse chestnut is a naturalised species, present since around the 16th Century. As well as its flowers, its leaves support moths which are preyed upon by bluetits. It should be noted that the horse chestnut leaf-miner moth severely impacts on the visual appearance of the tree, causing foliage to brown off and appear autumnal from mid-late summer. This non-native pest is common but can be controlled to an extent by removing all leaves once they have fallen and by using pheromone traps to lure the moths.

As well as those noted above, it has been well researched that mature trees provide environmental benefits in terms of oxygen release, cooling of the air, carbon sequestration, filtration of pollutants, reducing rainfall runoff and more. These benefits increase with as stem diameter and canopy size increase. As trees become aged, die back and decay, some of these values depreciate. Neither tree is in such condition that these benefits are irreversibly depreciating. It is acknowledged that the horse chestnut has been subject to crown reduction and that similar works may

be permissible for the lime. In both instances, the stems will continue to grow in girth and the canopies will regrow.

- 5.6 There may no significant risk of either the lime or the horse chestnut being felled or otherwise damaged. It could be surmised that both trees are currently under good arboricultural management. Despite this, there is no assurance that potential future occupiers would seek to manage their trees in this manner. TPO's give long term protection to trees, regardless of whoever the owner may be at any point in time. As such, it may sometimes be suitable to proactively make TPO's on a precautionary basis.

6.0 Conclusion

- 6.1 By the trees within the Order affording public amenity, the Council considers that it should be protected indefinitely by means of a Tree Preservation Order.

- 6.2 The Order has been properly made in the interest of securing the contribution that the trees makes to public amenity value in the area. The trees in question are an important element in the local landscape and contribute to the local environment. Given the above, the objection is not considered to outweigh the amenity value that the trees provide. It is therefore expedient and in the interests of amenity to make provision for the preservation of these trees. As a result, the tree preservation order should be confirmed.

Appendix 1 – TPO Plan



Appendix 2: Schedule

SCHEDULE

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

Reference on Map	Description	Situation
T1	Tilia spp.	In the rear garden of 5 Mildmay Court
T2	Horse Chestnut	In the rear garden of 7 Mildmay Court

Trees specified by reference to an area
(within a dotted black line on the map)

Reference on Map	Description	Situation
None		

Groups of trees
(within a broken black line on the map)

Reference on Map	Description	Situation
None		

Woodlands
(within a continuous black line on the map)

Reference on Map	Description	Situation
None		

Appendix 3: Photographs



Google Streetview screen capture showing Mildmay Court trees in 2010



View from Reyntiens View, November 2020 (lime on right, chestnut on left)



Lime viewed from north (by Seymour Place)



View from south from opposite 7 Reyntiens View (chestnut on left, lime on right)



Distant view from Archery Fields (only lime visible)

Appendix 4: Copy of the objection

Dear Sir/ Madam

Re: Objection to TPO Ref ORD/20/00002

Site location: Mildmay Court, Odiham, Hampshire

I received your letter dated 19 May 2020 advising that the Council has place a Tree Preservation Order (TPO) on two trees in Mildmay Court, for a lime at No 4 and a horse chestnut at No 7. I spoke with Adam Maskell as Principal Tree Officer the day after receiving this information. I advised Mr Maskell that the lime is in fact located in the garden of No 5 and not No 4, and therefore is on my property. I trust that Mr Maskell has now had the records amended.

I must say that I was most surprised and disappointed to receive the TPO, based on the wishes of someone in the local area. If this is the case, then what is to stop all the trees being made the subject of TPOs, on the basis of residential amenity? I was especially disappointed as I love my tree and have no plans to remove it or make any drastic changes to it. Despite my love for my tree, I contest the amenity value of the tree warrants a TPO.

Your letter states that my tree at No 5 and the tree at No 7 is being protected on the grounds of 'amenity' which I understand to mean that the removal of the selected trees would have a significant negative impact on the local environment and it's enjoyment by the public. I am questioning that protection of said trees would bring a sufficient degree of public benefit in the present or future.

My understanding is that 'amenity' takes into account the following criteria

1. Visibility - The lime is visible from Reyntiens View and parts of Archery Fields due to it's height. This is not a significant amount of people at all. In addition, from my conversation with Mr Maskell, he suggested I would likely want to submit a request to be able to reduce the height of the tree, and that this would likely be accepted. This being the case, the tree would be even less visible.
2. Individual, collective and wider impact - The lime is not of particular importance. It is not rare, or of cultural or historic value. It does not majorly contribute to the landscape as this is a residential area, with many other (non-TPO) trees. The tree is not in a conservation area.
3. Other factors - The lime holds no specific importance for nature conservation, and as a sole tree (even considering both trees proposed under this TPO) its loss would not have significant environmental impact.

I also understand that a TPO may be made if an authority believes there is a risk to the tree being felled, pruned or damaged in ways that would have a significant impact on the amenity of the area. I have given my views on the 'amenity' above, and also confirmed that there is no way I would want to fell, prune or significantly damage my tree.

I wish therefore to object to the lime tree at 5 Mildmay Court in Odiham being part of a TPO, and request a Decision Not to Confirm the Order, on a number of counts:

1. The protection of the said trees does not provide a sufficient degree of value or public benefit.
2. The trees in question are only visible to a few residents, they are not on a thoroughfare and the footfall of members of the public is therefore incredibly limited to only a few people. The tree is therefore not an 'amenity' to the public.
3. The trees are not of particular importance, historically, culturally or otherwise.
4. There is no nature conservation or environmental benefit offered by the trees.
5. There is no risk to the tree being felled or damaged.

I appreciate you taking the time to consider this matter and look forward to hearing of your decision in due course.

Yours sincerely,