

This Report will be made public on 3 June 2019



Report Number: **DCL/19/01**

**To:** Planning and Licensing Committee  
**Date:** 11 June 2019  
**Status:** Non key decision  
**Responsible Officer:** Llywelyn Lloyd, Chief Planning Officer

**SUBJECT:** THE FOLKESTONE & HYTHE (LAND AT SHELLEYS MEWS, INGLES ROAD, FOLKESTONE) TREE PRESERVATION ORDER NO. 6 OF 2019

**SUMMARY:** This report considers the confirmation of the Tree Preservation Order served in respect of two Sycamore trees and the objections relating to it. The objections mainly relate to tree nuisances and tree risk.

**REASONS FOR RECOMMENDATIONS:**

- a) The trees are prominent in the street scene, have high visual amenity value and make an important contribution to the character and appearance of this residential location close to Folkestone Town Centre. As such their retention is important in order to enhance the character and visual amenities of the locality.

**RECOMMENDATIONS:**

1. To receive and note report
2. To confirm The Folkestone & Hythe (Land at Shelleys Mews, Ingles Road, Folkestone) Tree Preservation Order No 6 of 2019.

## **1. BACKGROUND**

- 1.1 The purpose of this report is to consider the objections to the Tree Preservation Order made on two Sycamore trees situated to the south of 4 Shelleys Mews and the car parking area associated with 1-4 Shelleys Mews, a terrace of four modern cottage style dwellings located on the south side of Ingles Road, Folkestone. The trees are located at the rear of the dwellings adjacent to the designated parking bays. To the rear of the trees there is a row of garages associated with 22 Manor Road.
- 1.2 The two trees were identified for retention under planning permission 95/0726/SH which granted consent for the erection of four terraced dwellings (1-4 Shelleys Mews). The site is not located within a conservation area, nor was a tree preservation order made when the application was determined. A condition of that permission required the replacement of any trees which were removed or died within a period of 5 years from the completion of the development; consequently there was nothing to prevent the trees being removed or managed after that period.
- 1.3 The TPO was served on 19<sup>th</sup> February 2019 in response to a letter from a neighbour asking for the Council to consider making a TPO on two mature Sycamores which were due to be felled on 21<sup>st</sup> February 2019. A site visit was made to assess the amenity value of the trees and it was considered that they are prominent in the street scene, being visible from Ingles Road, Manor Road and Cheriton Gardens, and as such make an important contribution to the character and appearance of the area. It was considered that the trees meet the criteria for inclusion in a TPO and that it would be appropriate to make an order to secure their retention.
- 1.4 Seven objections were received from the owners or occupiers of adjoining properties. The concerns raised are as follows:
  - Trees are too close to properties
  - Trees overhang parking bays and drop debris
  - Leaf debris creates slippery path and slipping hazard
  - Trees create shade in the small gardens, drop leaf litter, branches and debris and prevent the establishment of a healthy garden
  - Trees are too close to boundary wall, could cause damage and collapse of wall
  - Concerns over safety of all people on properties overhung by trees
  - Possible damage and subsidence to all properties and vehicles overhung by trees
  - Owners disinterested in maintaining trees
  - House insurance is expensive
  - Trees provide little visual impact

## **2. APPRAISAL**

- 2.1 The Sycamore trees subject of the Tree Preservation Order are valuable in terms of their visual amenity and contribution to the character and appearance of this attractive urban location set on the outskirts of Folkestone

Town Centre. Ingles Road is a tree lined street characterised by a mix of elegant period semi and detached properties, many divided into flats, interspersed with large modern apartment blocks. The trees are prominent in the street scene when viewed from various points along Ingles Road, Manor Road and Cheriton Gardens, and are considered to make an important contribution to the amenities of the area.

- 2.2 The trees were shown to be retained as part of the development scheme for Shelleys Mews and appear to have co-existed with the occupants of the dwellings since they were erected around twenty years ago and as such were not considered to be at risk from felling. There is evidence that the smaller of the two trees may have been pollarded at some point in the past and there is no reason why the trees cannot now be retained and managed in a similar way. Nevertheless, it is still considered appropriate for the TPO to remain on the trees so that their long term retention can be secured, given their prominence in the street scene.
- 2.3 With regard to the concerns relating to the trees being too close to the properties, it is not known in what respect this causes an issue to the residents. It is acknowledged that trees growing closer to a property than half full height can cause anxiety, and potentially be a barrier to light. However works to reduce the size of the trees and/or thin the canopies (subject to the necessary consent) would help to alleviate these concerns and the TPO will not prevent this.
- 2.4 Common law rights allow neighbours to prune back trees that are not protected by a Tree Preservation Order to their boundary without the consent of the tree owner. This includes pruning of branches which extend over neighbouring property. As the trees in question are now subject to a tree preservation order, an application to the Council would be required.
- 2.5 Though it is acknowledged that the trees are quite close to Shelleys Mews and the garages on adjoining land, this would not be a reason for excluding them from a preservation order providing that there is no evidence to suggest that the trees could be posing a significant risk to the structures or occupants of the properties, and no evidence has been provided to demonstrate that this is the case.
- 2.6 Turning to concerns that the trees overhang the parking bays and drop debris on vehicles below, with the potential to cause damage, provision was made for the retention of the trees in the proposed development at Shelleys Mews and the applicant demonstrated that they could be retained adjacent to the car parking bays. The approved plans show nine parking bays between 4 dwellings, of which three are in close proximity to the easternmost tree. Aerial photographs taken between 2006 and 2015 and Google maps show only a handful of vehicles parked in the bays at any one time, suggesting that the need to park under the trees is not a regular occurrence. As mentioned above, removal of dead wood together with cyclical pruning of the trees would help to alleviate this problem.
- 2.7 With regard to concerns over leaf debris causing a slipping hazard, the clearing of leaves is considered to be a general household maintenance task

and it is assumed that the requirement to deal with this on a regular basis would be taken into account when purchasing or renting a property with large trees in the vicinity. It is not sufficient justification for not confirming the TPO or allowing the removal of the trees.

- 2.8 Turning to the negative effects of the trees on the enjoyment of the surrounding gardens, the orientation of the sun in relation to the dwellings means that No 4 Shelleys Mews is likely to be most affected by loss of direct sunlight from midday onwards, the other three dwellings probably only losing sunlight during the latter part of the day. Pruning of the trees to allow light to filter through the canopy together with the planting of shade tolerant plants would help to alleviate the shading issues.
- 2.9 Large trees in gardens have and always will generate complaints from residents in relation to leaf litter blocking drains and gutters, blocking out light, preventing the establishment of planting and causing general nuisance, all of which can usually be remedied by routine household maintenance and careful pruning carried out at reasonable intervals, and do not pose a nuisance sufficient to warrant the felling of the tree.
- 2.10 Any nuisance needs to be weighed up against the benefits connected with trees within the urban environment. Trees play an important role in enhancing our quality of life and this is acknowledged in the Government's Sustainable Development Strategy. Not only do they have a visual quality, but they also enhance the environment by improving air quality, and reducing the 'Greenhouse' effect by removing carbon dioxide from the air and releasing oxygen. Trees are also an effective sound barrier, provide shade, can limit noise pollution and recent research shows that they also help reduce the stress of modern life. In addition trees benefit the environment and the landscape, and are an integral part of the ecosystem providing benefits to wildlife and biodiversity.
- 2.11 With regard to the perceived tree risks identified by the objectors as: possible damage to the boundary wall, surrounding property; people; vehicles and footpath, no evidence has been produced to confirm that the trees are currently causing a danger or damage. The responsibility for the trees rests solely with the tree owner and it is down to them to ensure that the trees are inspected periodically (duty of care). It is possible to manage the trees to reduce the risk to people in adjoining properties (subject to consent), such as the removal of crossing /rubbing branches and dead wood from time to time, and/or the overall reduction of the crown to reduce the loading in canopy.
- 2.12 It is recognised that the land owner and residents are seeking to avoid the risks laid out above by felling the trees and as such it is recommended that in the first instance they engage a qualified arboricultural consultant to assess the trees to identify any structural issues and make recommendations based on their findings. Should it be found that the trees are dangerous, or that they are causing structural damage which cannot be resolved by pruning or other methods, then the Council would consider favourably an application for their removal based on such evidence.

- 2.13 With regard to the claims that the tree owner is not interested in maintaining the trees, as mentioned above, the tree owner has a duty of care with regard to their trees and neighbours are able to undertake works to overhanging trees subject to consent from the Council. Regardless of whether or not the trees are protected by a TPO, the costs and logistics of undertaking such works would need to be discussed and agreed between the neighbours and the tree owner and again, may need to be born in mind before entering into a sale or rental agreement of a property where there are large trees nearby.
- 2.14 Turning to claims that house insurance is expensive due to the presence of the trees, it is not clear why this has now become a problem. As mentioned above, the trees and the dwellings have co-existed for around twenty years, indicating that home insurance has probably not been an issue up until now.
- 2.15 With regard to claims that the trees possess little visual impact, as set out above, the assessment of the trees revealed that they are prominent in the street scene when viewed from Ingles Road and visible from surrounding streets, being among only a handful of large mature trees in this urban location. Notwithstanding their visual amenity value, the benefits to the environment in this location are many. In addition to those mentioned above, the trees help to soften the urban environment in general as well as complementing the 'cottage' style setting of the mews.

### **3. CONCLUSION**

- 3.1 In conclusion, the Sycamore trees play a key role in the street scene and are considered to be valuable in terms of their visual presence in the public realm and for the positive contribution they make to the amenities of the locality and of the character and appearance of the area. The Tree Preservation Order seeks to ensure the retention of the trees, ensure that future works to them can be controlled and their future health safeguarded in the interests of the visual amenity of the locality. It is recommended that on these grounds the Tree Preservation Order is confirmed without modification.
- 3.2 This application has been reported to committee at the request of Cllr Monk.

### **4. RISK MANAGEMENT ISSUES**

- 4.1 Risk management is considered to be as follows:

<b>Perceived risk</b>	<b>Seriousness</b>	<b>Likelihood</b>	<b>Preventative action</b>
Tree may be felled if TPO not confirmed	High	High	Confirm TPO

### **7. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS**

#### **7.1 Legal Officer's Comments (NE)**

There are no direct legal implications arising from the recommendations in this report.

## 7.2 **Finance Officer's Comments (LK)**

There are no financial implications arising directly from this report

## 7.3 **Diversities and Equalities Implications (GE)**

There are no equalities implications directly arising from this report

## 8. **CONTACT OFFICERS AND BACKGROUND DOCUMENTS**

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Jo Daniels Planning Technician  
Telephone: 01303 853458  
Email: [jo.daniels@folkestone-hythe.gov.uk](mailto:jo.daniels@folkestone-hythe.gov.uk)

The following background documents have been relied upon in the preparation of this report:

### **Appendices:**

Appendix 1: