

Reference:	23/00218/TPO	
Application Type:	Tree(s) subject to TPO	
Ward:	Leigh	
Proposal:	Fell and grind out stump (T2) - Sycamore (<i>Acer pseudoplatanus</i>), remove major deadwood to Trees (T5) and (T6) - Scots Pine (<i>Pinus sylvestris</i>) and remove major deadwood (T7) - Corsican Pine (<i>Pinus nigra</i>) (Application for works to Trees subject to a Tree Preservation Order)	
Address:	33 Hadleigh Road, Leigh-on-Sea, Essex	
Applicant:	E Leonard	
Agent:	Mr Simon Govier of Montrose Trees Ltd	
Consultation Expiry:	7th March 2023	
Expiry Date:	13th April 2023	
Case Officer:	Gabriella Fairley	
Plan Nos:	Site plan, First Schedule - TPO species	
Recommendation:	GRANT CONSENT FOR WORKS TO PRESERVED TREE(S)	



1 Site and Surroundings

- 1.1 The proposed works relate to four (4no.) individual trees of two (2no.) different species (Sycamore and Pine). Tree T2 is on the north-west boundary of the site, adjacent to Hadleigh Road. Trees T5, T6 and T7 are set back from the boundary of the site and are to the northeast. All trees subject to this application are visible from Hadleigh Road. The site is on the southwestern side of Hadleigh Road, and the area is residential in nature.
- 1.2 The site is within the Leigh Conservation Area. There are also a number of trees within the site that are separately covered by Tree Preservation Order TPO 2/1977.

2 The Proposal

- 2.1 This application seeks consent for the following works to these preserved trees:
- T2 - Sycamore (*Acer pseudoplatanus*) - Fell and grind out stump.
 - T5 and T6 - Scots Pine (*Pinus sylvestris*) - Remove major deadwood.
 - T7 - Corsican Pine (*Pinus nigra*) - remove major deadwood.
- 2.2 This application is in response to an ongoing enforcement enquiry (ref 21/00308/BRCN_A).

3 Relevant Planning History

- 3.1 The site has a long planning history. Therefore, the details of the most relevant planning history to this application are shown on Table 1 below.

Table 1: Relevant planning history

Referenced number	Description	Outcome [Date]
18/00598/FUL	Erect two storey dwelling house with basement level and form vehicular access on to Hadleigh Road and various tree works including felling 9 trees on the site (Amended Proposal)	Approved (28.06.2018)
23/00230/TCA	Fell and grind out stumps (G1) - Leyland Cypress (<i>Cupressocyparis leylandii</i>) Hedge, crown reduce by 1.5m and shape (T13) - Plum (<i>Prunus domestica</i>), crown reduce by 1.5m and shape (T14) - Pear (<i>Pyrus</i>), reduce by up to 2m (T18) - Swamp Cypress (<i>Taxodium distichum</i>), fell and grind out stumps (G101) - Self-Seeded Sycamore (<i>Acer pseudoplatanus</i>), fell and grind out stump (T102) - Pear (<i>Pyrus</i>), fell and grind out stump (T103) Unidentified Species, crown reduce and shape (T104) Unidentified Fruit Spp, crown lift to 2.5m (T105) English Oak (<i>Quercus robur</i>), crown reduce by 1.5 to 2m and shape, retain failed stem as "Phoenix Tree" feature (T106) Mulberry (<i>Morus</i>) adjacent G1, reduce and shape to create hedge Mixed Fruit Tree Group along Southern Boundary (Notification of proposed works to Trees in a Conservation Area)	Pending.

21/00308/BRCN_A	Enforcement enquiry relating to the failure to comply with conditions relating to tree protection	Breach of Condition Notice served
20/00263/BRCN_B	Enforcement enquiry relating to construction works taking place without tree protection measures in place.	Case closed (15.09.2020)

4 Representation Summary

Call-in

- 4.1 The application has been called in to Development Control Committee by Councillor Mulroney.

Public Consultation

- 4.2 Thirty (30) neighbouring properties were consulted, and a site notice was displayed. Representations from three (3) interested parties have been received which making the following objections:

- Protecting and sustaining healthy trees here is paramount.
- Removal and reduction is not essential.
- Council and owners are guardians of this land and need to maintain full size established mature trees.
- These trees are not just garden ornaments to be diminished by drastic chopping and removal.
- Hadleigh Road is within the conservation area in Leigh-on-Sea and it is an area subject to landslip and erosion.
- The tree root system helps to stabilise the soil in the area and the removal of major trees such as Sycamore, Scots Pome and Corsican Pine is therefore worrying for the stabilisation of the area.
- The removal of trees will alter the landscape and appearance of an area that has already lost a number of its old established trees.
- No consultation with adjoining owner.
- Ownership boundary includes land owned by 29 Hadleigh Road.
- Tree locations on the plan are incorrect.
- Check ownership of T2, G1 and T106
- No protected trees should be felled other than those consented in permission 18/00598/FUL.
- T5, T6 and T7 are dying because of neglect by applicant.
- No reason to fell T102.

- 4.3 (**Officer comments:** The comments have been taken into account and the relevant planning matters raised are discussed in subsequent sections of the report. All adjoining neighbours have been consulted as a part of the standard notification process and a site notice was displayed. The objecting points raised by representations have been taken into account in the assessment of the proposal but not found to represent justifiable reasons for recommending refusal of the application in the circumstance of this case.)

Tree Officer

- 4.4 No objection. The following summarised comments have been received by the Council's Arboricultural Officer:

T2 (Sycamore) – T2 is a self-sown tree. The crown of the tree heavily overhangs the public

footway and the highway. The tree is too close to the boundary to be retained without it having to be heavily pruned back regularly due to the encroachment of the highway. The roots are likely to cause damage to the public footway and the road as they grow.

T5, T6 and T7 (Pine) – All three trees have some dead branches to remove.

Leigh Town Council

- 4.5 Object – Large amount of foliage that would be lost is concerning and would be detrimental to the area. The trees are well established and enhance the character of the site.

Conservation Officer

- 4.6 No objection.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2021)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2021)
- 5.3 Core Strategy (2007): Policies KP2 (Development Principles) and CP4 (Environment and Urban Renaissance)
- 5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM5 (Southend's Historic Environment).
- 5.5 Southend-on-Sea Design and Townscape Guide (2009)
- 5.6 Leigh Conservation Area Appraisal (2022)
- 5.7 Tree Policy 2020-2030 (2020)

6 Planning Considerations

- 6.1 When determining an application seeking consent for works to protected trees the Local Planning Authority should do the following according to the PPG¹:
- assess the amenity value of the trees and the likely impact of the proposal on the amenity of the area;
 - consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it;
 - consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions;
 - consider whether any requirements apply in regard to protected species;
 - consider other material considerations, including development plan policies where relevant; and

¹ Paragraph: 090 Reference ID: 36-090-20140306 Revision date: 06 03 2014

- ensure that appropriate expertise informs its decision.

7 Appraisal

Impact on amenity value and justification

- 7.1 The Council seeks to protect preserved trees which make a positive contribution to local character. Applications for pruning and felling of preserved trees therefore need to be justified.
- 7.2 Tree T2 (Sycamore) is to the frontage of the site, next to Hadleigh Road. Trees T5, T6 (Scots Pine) and T7 (Corsican Pine) are set back from the boundary of the site and are to the northeast part of the site. All of the trees are visible from Hadleigh Road so hold high amenity value within the streetscene and conservation area.
- 7.3 T2 (Sycamore) is a self-sown tree within the conifer hedging trees adjacent and is growing directly on the north-east boundary of the site, next to Hadleigh Road. As a result of its growth, the crown of this tree heavily overhangs the public highway and footpath next to the site. Due to its location next to the public highway and footpath, the roots of the tree are likely to be growing beneath the public footway surface, which will cause damage to the public footpath and highway as they continue to grow. Although this tree is next to the public highway so is highly visible to the public, it is too close to the boundary to be retained without it having to be heavily pruned back regularly due to encroachment into the highway. As this is a self-seeded tree and for the reasons outlined above, it is considered that the proposed felling and grinding out of the stump of this tree is acceptable, and the future issues in relation to the public highway and footpath as a result of the roots, outweigh the amenity value offered to the conservation area by the tree. Replacement planting can reasonably be required through the imposition of a condition. The proposal is therefore considered policy compliant in this regard.
- 7.4 The proposed removal of deadwood from trees T5, T6 and T7 (Pines) is exempt from the TPO application procedure, as the proposed works only include the removal of branches that are already dead. The proposed works would help to preserve the amenity offered by these preserved trees.
- 7.5 The Council's Arboricultural Officer has confirmed that they have no objection to the works proposed. It is therefore considered that the proposed works to the trees are acceptable and policy compliant in this regard.

Loss or damage likely to arise

- 7.6 The PPG states² that: "... the authority ... should consider whether any loss or damage has arisen as a consequence of the decision. It should consider whether that loss or damage has arisen within the 12 months following its decision or, in the case of an appeal to the Secretary of State, the final determination of that appeal."
- 7.7 It is considered reasonable to require the tree works to be carried out in accordance with British Standard BS3998:2010 which covers the recommendations for tree work. The imposition of this condition is improbable to result in any loss or damage that would give rise to a claim for compensation.

Protected Species

² Paragraph: 112 Reference ID: 36-112-20140306 Revision date: 06 03 2014

- 7.8 The trees affected by the works does not belong to protected species. There is also no known evidence of protected species or nesting birds on the tree affected by the works. However, the condition requiring the works to be carried out in accordance with British Standard BS3998:2010 covers the protection of wildlife and its habitat.

Equality and Diversity Issues

- 7.9 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

Conclusion

- 7.10 Having taken all material planning considerations into account, it is considered that the proposed works are proportionate on the basis of the justification that has been put forward. Officers consider the proposal to be acceptable and policy compliant subject to conditions and recommend that consent be granted for the proposed works.

8 Recommendation

8.1 Members are recommended to:

GRANT CONSENT FOR WORKS TO PRESERVED TREE(S) subject to condition(s):

- 01 The works covered by this consent shall begin no later than two years from the date of this consent.

Reason: To enable the circumstances to be reviewed at the expiration of the period if the consent has not been implemented, in accordance with the National Planning Policy Framework (2021), policies KP2 and CP4 of the Core Strategy (2007), policies DM1 and DM3 of the Development Management Document (2015) and the advice contained in the Southend-on-Sea Design and Townscape Guide (2009).

- 02 The works to T5, T6 and T7 covered by Tree Preservation Order 2/1977 shall be restricted as per the submitted description to the following:

- **Remove major deadwood to trees T5, T6 and T7.**

Reason: In the interests of visual amenity including that which contributes the character and appearance of the Leigh Conservation Area and to protect the tree and any wildlife, in accordance with the National Planning Policy Framework (2021), policies KP2 and CP4 of the Core Strategy (2007), policies DM1,DM3 and DM5 of the Development Management Document (2015) and the advice contained in the Southend-on-Sea Design and Townscape Guide (2009) and Leigh Conservation Area Appraisal (2022).

- 03 The works shall be carried out in accordance with British Standard BS 3998 (2010) by a suitably qualified person.

Reason: In the interests of visual amenity including that which contributes the character and appearance of the Leigh Conservation Area and to protect the tree and any wildlife, in accordance with National Planning Policy Framework (2021), policies KP2 and CP4 of the Core Strategy (2007), policies DM1 and DM3 of the Development Management Document (2015) and the advice contained in the Southend-on-Sea Design and Townscape Guide (2009) and Leigh Conservation Area Appraisal (2022).

- 04 Prior to the commencement of approved works to T2, full details of replacement planting for T2 shall be submitted to and approved by the Local Planning Authority and carried out within the first available planting season October to March inclusive thereafter.**

Reason: In the interests of visual amenity including that which contributes the character and appearance of the Leigh Conservation Area and to protect the tree and any wildlife, in accordance with National Planning Policy Framework (2021), policies KP2 and CP4 of the Core Strategy (2007), policies DM1 and DM3 of the Development Management Document (2015) and the advice contained in the Southend-on-Sea Design and Townscape Guide (2009), the Leigh Conservation Area Appraisal (2022) and the Tree Policy 2020-2030 (2020).