

PLANNING COMMITTEE – 5 JULY, 2006

Report of the Development Control Manager

COUNTRYSIDE ITEM

OBJECTION TO TAUNTON DEANE BOROUGH (WELLINGTON NO3) TREE PRESERVATION ORDER 2006 AT THE REAR OF 23-33 FORE STREET, WELLINGTON (TD1006)

PROPOSED OBJECTION

An objection has been received to a Tree Preservation Order placed on seven individual trees, at the rear of 23 - 33 Fore Street, Wellington.

BACKGROUND

The trees are to be found to the rear of 23-33 Fore Street Wellington, near to the centre of the town. They comprise four apples, one plum, one ornamental cherry and one ornamental plum, relics of when the properties' gardens were in cultivation (the properties are now predominately in business use). The gardens are in two blocks, divided by the 'Lloyds Bank alley' that runs between Fore Street and the North Street Car Park. A Tree Preservation Order was placed on the trees on 3 May, 2006 following the submission of a Notification to fell all the trees (Application No. 43/2006/037T). The sycamore trees, that were also part of the Notification, were not protected with the Order. Haunch Lane Developments Limited, the owner of the site, plans to develop the land in the near future.

OBJECTION TO THE ORDER

The Louis Hawkins Practice, the owners Architect, has objected to the Order (letter dated 16 May, 2006) on the grounds that the trees are in poor condition and that the law does not permit the protection of fruit trees. A report has been submitted by the owner's arborist that describes the trees to be in poor condition and recommends that they should be felled.

ASSESSMENT

The trees can be seen from North Street car park and the 'Lloyds Bank alley' that leads to Fore Street. A two metre high wall surrounds the neglected gardens and means that only the tops of trees can easily be seen. Many of the trees are shrouded in brambles and ivy and some are engulfed in the weedy sycamore growth. The trees closest to the path T1, T2, T6 and T7 are the most noticeable. The trees are in poor health, misshapen with canker and with much dead wood. Some trees are worse than others. This is partly because fruit trees have poor disease resistance, because they have been neglected, but also because they are being suppressed by the undergrowth of weeds and are short of light. The trees would be rejuvenated if they were pruned and had the weedy undergrowth removed from around them. They do

not appear to present any danger. They are small specimens growing in a private space, if they did fall they would be unlikely to damage property or cause injury.

Despite their poor health, the trees have high amenity value. They can easily be seen from well-used public spaces and are in the very centre of Wellington where there are few other trees. They are also special because they are garden trees, remnants from a time when the land behind the Fore Street properties was domestic gardens. They contribute to the historic character of the Conservation Area. The trees have the added attraction that they flower and have scent.

The owner objects to the Order on the grounds that it is not lawful to protect fruit trees. Under Part VIII of the Town and Country Planning Act 1990 and the Town and Country Planning (Trees) Regulations 1999, fruit trees may be protected by a TPO, provided the Local Planning Authority believe it to be in the interests of amenity to do so. The only exceptions are where fruit trees are cultivated in the course of a business. Then it is unnecessary for consent to be sought to cut down or prune the trees, if it is in the interest of the business. The fruit trees at 23 - 33 Fore Street are not in commercial cultivation and therefore are not eligible for exception.

The protected trees will limit how much of the site can be built on. The Agent has pointed out that T1, 2, 3 and 4 can be accommodated within the development proposals but that trees T5, 6 and 7 will limit what can be built. It may be appropriate to allow some of the trees to be removed if a good scheme requires it. However, this can be considered when a planning application is made.

CONCLUSION

The serving of Tree Preservation Orders on fruit trees is permitted. The trees are not in commercial cultivation and are therefore not exempt from Tree Preservation Order regulations. The trees are currently in poor condition but they are not dangerous. If the weed growth is cleared and tree work is carried out to remove dead wood, it is considered that the trees will be restored to health. An application can be made to fell any trees that do not succeed. The trees are visible from a well-used public space in an area where there are few other trees. The trees have high amenity value and help to reinforce the character of the Conservation Area. Development proposals may require that some of the trees are felled but this can be addressed when an application is made and mitigation can be considered.

RECOMMENDATION

That the Order be confirmed.

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