

22/00169/TORDER

Objector Dr L. Wilson

Location The Old Vicarage, Sutton Lane, Granby

Objection To the Granby No.1 Tree Preservation Order 2022

Ward Thoroton

THE SITE AND SURROUNDINGS

1. The Tree Preservation Order (TPO) protects 2 trees, a Lime and Walnut, at The Old Vicarage, Granby. The property is a large 19th Century dwelling set within a mature garden with numerous trees. The property is located within Granby conservation area with the appraisal noting it is a non-listed building which makes a positive contribution to the local character.
2. The trees contribute to the sylvan character of the Old Vicarage and enhance the character of the conservation area at a point where the character of Sutton Lane changes from older properties associated with the centre of the village and more modern 20th Century housing extending out along Sutton Lane. The trees are particularly prominent from the eastern approach into the village.

DETAILS OF THE TREE PRESERVATION ORDER

3. The TPO was made on the 20th October 2022. Under the Town and Country Planning (Tree Preservation) (England) Regulations 2012 the Order takes effect provisionally and needs to be confirmed within 6 months of the date it was made. The Council has a duty to consider all objections and representations that have been made before deciding whether or not to confirm the Order.
4. The TPO was made as a result of a conservation area tree notice from the owner of the Old Vicarage who was responding to requests from the owner of the adjacent property, the Hedgerows 9 Sutton Lane, who wanted the trees to be reduced in height by around 50%.

SITE HISTORY

5. The owners of the Hedgerows submitted a previous conservation area tree notice to prune back overhanging branches of trees from the Old Vicarage, the work was allowed and was recently implemented.

REPRESENTATIONS

Local Residents and the General Public

6. The owner of the trees has not objected to the TPO.

7. An objection to the TPO has been received from the owner of the neighbouring property which adjoins the trees, the Hedgerows 9 Sutton Lane. The objection makes the following points.
- The trees in question cause them the greatest amount of trouble and hassle and they have asked the tree owner to reduce them on many occasions, but they have previously refused.
 - The trees cause damage to the house, block the gutters and downpipes which have to be cleaned and unblocked regularly, at least every 3 weeks.
 - The trees block light to the house and conservatory which causes the glass to turn green further blocking light and requiring regular cleaning.
 - Only half the width of the drive can be used because the leaves and blossom get into the drainage holes of the cars which could cause damage to them and requires further work to clean them.
 - The leaves and blossom blow into the road blocking the drains and culverts which results in water flooding up to the camber of the road. The trees are so big that the roots have penetrated the culvert causing further blockage and silting. Branches overhang the road and catch farmers transporting straw which gets deposited on the road further blocking the drains. Severn Trent and Nottinghamshire County Council now need to be called out regularly to manage the drains and it is only a matter of time before houses are flooded.
 - A covenant on the property [The Old Vicarage] states “To maintain the boundary features which belong to the property or are the responsibility of the transferee in good order and repair” which they have ignored endangering people and property. Previous owners used to have the trees trimmed in height and width to uphold the covenant.
 - The trees are so wide they span over the pavement, the sap and leaves/blossom cause the path and also the alley at the side of the house to become slippery.
 - A large branch fell off a tree onto the grass beside the verge and could have harmed a pedestrian.
 - They have 3 green bins that cope with the waste their garden produces but cannot cope with the leaves that come from the trees on the Old Vicarage, what should they do allow them to pile up in the garden or take them to the tip at their expense?

APPRAISAL

8. Trees can be considered a legal nuisance and are often an inconvenience to property owners. This has been considered under common law which has determined that overhanging branches are a legal nuisance and property owners have the right to abate this by pruning back branches to the boundary line. Falling leaves and blossom are not considered to be a legal nuisance, merely an inconvenience and they are something to be expected and tolerated.
9. The maintenance of windows, gutters, path surfaces are all part and parcel of owning a property even though such work can be time consuming or costly. The Council recognises that a balance needs to be struck between the competing rights and expectations of property owners and did allow work to enable the overhanging branches to be pruned back as it was considered this would have little impact on the appearance or health of the trees. However, the

proposed reduction of the trees would have harmed their natural appearance and would have harmed the health of the Beech tree which can suffer from sun damage to exposed bark if the canopy is severely reduced. A heavy reduction of the Lime would have ultimately been counterproductive as it would have resulted in a dense proliferation of new growth.

10. The maintenance of road gullies and culverts is outside of the tree owner's control. There is a road gully close to the trees and it would be Nottinghamshire County Council's responsibility to maintain this. Given that roads across the Borough are often lined by trees it is considered that the leaves shouldn't pose any undue maintenance obligations on the County Council. If roots have entered a drainage pipe they can be severed and the pipe can be lined. Any concerns about the impact the tree is having on the drainage infrastructure could be dealt with by a TPO application to work on the trees, but it would need to be supported by some investigation to demonstrate the impact, such as a drain scan. Concerns about flooding and drainage should be raised with the County Council as both the Highway and Lead Local Flood Authority. The Council would not object to the tree being crown lifted to 5.2m over the road to prevent branches impeding vehicle movement as this is a standard height, but an application would need to be made to enable this.
11. An old brick wall separates the 2 properties and given its age some defects are to be expected, but there are no significant signs of damage. If the owner of the wall felt that the trees were damaging it, an application could be made to the Council to prune branches in contact with the wall. If the roots were damaging the wall some form of bracing could be considered otherwise the trees may require removal. As no evidence has been presented that demonstrates the trees are damaging the wall it is considered this could be dealt with via a future TPO application.
12. It is not clear if the branch that fell from the tree was from one of the 2 protected trees, but it shouldn't prevent the TPO being confirmed. The TPO would allow applications to be made to prune trees, there is also an exemption that allows dead branches to be removed from trees without the need to make an application. The owner of the trees has a general duty of care whether or not the trees are protected.
13. As previously mentioned, leaves from trees are to be expected but they can create a large volume of material. The Council charges for green waste collection, but there are other ways to manage leaves and composting them is an excellent low-cost way to improve soil fertility.

RECOMMENDATION

It is RECOMMENDED that the Granby No.1 Tree Preservation Order 2022 be confirmed without modification.