



Planning Committee

12 July 2018

East Leake No.1 Tree Preservation Order 2018

Report of the Executive Manager – Communities

Location 26 Brookside, East Leake

Ward Leake

THE SITE AND SURROUNDINGS

1. 26 Brookside, East Leake is a Victorian detached property with a large front garden located in a prominent location on the junction between Brookside and Brookside Avenue. The front garden is laid to lawn and is fronted by a hedgerow. At the front of the garden in the south east corner is a large Cedar tree which is located approximately 1m from the edge of a paved driveway. On the northern boundary of the front garden is a medium sized Apple tree.
2. The site is located close to the southern edge of the East Leake conservation area. This part of the conservation area's character is largely created by established landscape features, such as mature trees and hedgerows within the grounds of a series of properties that pre-date 1900, around them housing generally dates from the 1960's. On the other side of the road to the south east of the property is an informal area of trees and paddocks and beyond this an area of new housing currently under construction.

DETAILS OF THE TREE PRESERVATION ORDER

3. A Tree Preservation Order was made in response to a conservation area tree notice to fell the Cedar which was received in August 2017, the following reasons were given for the work:
 - The tree sits on elevated ground in relation to the driveway.
 - There is an exposed buttress root of at least 10in diameter.
 - It overhangs the highway on one side and is getting close to the house on the other.
 - It needs significant crown reduction which will spoil the shape and look of the tree.
 - The roots are coming up under the driveway, lifting and relaying the drive will cost £3,600. The owner wanted to remove the tree before commencing work to the drive.
4. In response to the conservation area tree notice the Council either had to allow the tree to be removed or make a Tree Preservation Order to secure its retention. The reasons for wanting to fell the tree were taken into account, but it was considered that the lifting of the driveway was relatively minor and that careful pruning could mitigate concerns about the overhang over the highway and the proximity of the tree to the property.

5. Due to the tree's visual prominence a Tree Preservation Order was made on 18 October 2017. Under the Town and Country Planning (Tree Preservation) (England) Regulations 2012 the Order took effect provisionally and needed to be confirmed within 6 months of the date it was made, unfortunately due to an oversight the objection wasn't presented to the Planning Committee within the required time period, as such it was allowed to lapse and a second Tree Preservation Order was made on 25 April 2018 and this order needs to be confirmed by 25 October 2018.

Representations

6. An objection to the Tree Preservation Order has been received from Mrs Abel, the owner of the property, for the following summarised reasons:
 - In terms of amenity the Cedar, whilst visible from the highway, has little impact or importance. The tree is not native to the UK and is therefore incongruous with other trees in the area. It has no cultural or historic value and is not a rare species.
 - The tree is large and continues to grow and is more suited to a park or woodland. The branches overhang the road and are brushed by passing buses. The tree will require a substantial reduction and this will spoil the appearance and shape of the tree.
 - In certain parts of the driveway roots are exposed. If allowed to grow the tree's roots are likely to affect the pavement and/or highway.
 - The owner has offered to plant another tree in the front garden which will be more suitable for the local area.

APPRAISAL

7. Section 198 of the Town and Country Planning Act 1990 allows Councils to make Tree Preservation Orders when it is "expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area." Amenity is not defined, but the Government considers that "Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public." Government advice also states that "trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public."
8. The Cedar is clearly visible from Brookside when approaching from the north and south. This section of Brookside only has a pavement running along its western side; from this the tree can be viewed by pedestrians for a distance of 55m to the north and 65m to the south. Longer distance views are available to motorists, from the junction of Burton Walk 110 metres to the north. There are also long distance views as far as 250m to the south from the southern end of Kirk Ley Road. Brookside is one of the main roads through the village and the tree is particularly prominent when traveling south along it.
9. Apart from visual appearance and prominence, the Council can give weight to other considerations such as wildlife value, contribution to landscapes or the appearance and character of conservation areas, but these on their own are not sufficient to justify protecting a tree. In this case it is considered that the visual prominence of the tree is the primary reason it justifies protection.

10. Cedar trees are non-native and as such the tree is not strictly in keeping with the character of the conservation area, but despite this it is shown as being a significant tree on the Conservation Area Townscape Appraisal produced in July 2008. The Conservation Area Appraisal and Management Plan identifies different character zones within the village and notes that the character of Brookside and Station Road "is largely created by established landscape, such as mature trees and hedgerows." Overall it is considered that the conservation area is enhanced by the retention of the mature tree despite the fact it is not a native species.
11. To justify protection trees do not have to be culturally or historically valuable, nor do they have to be a rare species, in fact trees of any species and age can be protected by a Tree Preservation Order.
12. Cedar trees are large growing specimens and it is likely that the tree will require some form of pruning in the future. Tree Preservation Orders allow for applications to be made to prune or fell trees. The tree is located at the front of the garden and overhangs the pavement and road, but the canopy gives adequate ground clearance. It would be appropriate to allow the tree to be pruned in the future to ensure it does not pose an obstruction or danger to highway users and it is considered that such pruning could take place without any significant harm to the overall appearance and health of the tree.
13. The Council acknowledges that the roots of the Cedar are lifting the block paver driveway in places. Such surfaces have little sub-base and roots can easily disturb them. This was taken into account when the Tree Preservation Order was made and at the time it was considered that the level of disturbance to the pavers was quite low. Repairs to such surfaces are difficult to determine without lifting the pavers to inspect the roots and ground they are growing in, but it should be possible to lift and relay many of the areas. Technically roots can only be pruned back following an application to the Council and an application would need to specify where the roots will be removed or pruned back to. Large roots should not be severed but British Standard 5837 gives an indication that roots up to 25mm diameter can be cut back.
14. If the roots of a private tree sufficiently damage a public road or pavement, or branches cause an obstruction or danger to highway users, the highway authority would usually write to the tree owner in first instance; such a request could form the basis of an application for work. In extreme cases the highway authority can serve notice on land owners to enforce work to a tree, in such a situation the minimum required work to implement the terms of the notice would be exempt from the need to make a Tree Preservation Order application. There is no guarantee that the tree will ever cause damage to the road and the pavement, but if it did the Council would seek to work with the tree owner and the highway authority to come to a suitable arrangement.
15. When considering conservation area tree notices we can give little weight to offers to plant replacement trees as the legislation does not allow such planting to be conditioned or enforced. Unfortunately past experience has shown that many such offers do not result in new trees being planted as people have busy lives and there are always competing time and financial pressures. Tree Preservation Order applications differ from conservation area

tree notices in that they allow replacement trees to be conditioned and enforced.

16. There is nothing to stop the land owner planting a replacement tree ahead of felling the Cedar and stating in writing to the Council that it was intended to mitigate the removal of the Cedar in the future. We could keep this correspondence on file and take it into account when considering future applications to fell the tree. Clearly it would be a matter of judgement as to whether the young tree has sufficiently established to allow the Cedar to be removed, but such action could feasibly facilitate the property owner's long term intention whilst ensuring the amenity of the area is maintained.

RECOMMENDATION

It is RECOMMENDED that the East Leake No.1 Tree Preservation Order 2018 be confirmed without modification.

