

36 Chase Road, Epsom, KT19 8LT

Felling of Holm Oak T17 of TPO 69 located at the side of the property.

Ward:	Town Ward;
Contact Officer:	Jeremy Young

1 Plans and Representations

- 1.1 Additional information under consideration in this item can be found in the appendix attached to this report:

Annex 1 – Letter of objection

Annex 2 - Tree amenity appraisal 1

Annex 3 – Tree amenity appraisal 2

Annex 4 – Plan of tree location

2 Summary

- 2.1 This report is for the Planning Committee to consider whether to confirm Tree Preservation Order (TPO) No. 463 following an objection to the order being made by the tree owner's representative.
- 2.2 Tree Preservation Order No.69 was made in 1973 and protected a number of trees. The tree owner applied to fell one of the protected trees being the Holm Oak (18/00538/TPO), which the Local Planning Authority refused. This led to the tree owner appealing the decision with the Planning Inspectorate.
- 2.3 Upon closer inspection it became clear that the tree to be felled had been misidentified as an Eleagnus when it is a Holm Oak.
- 2.4 There is a formal variation process for TPO's, however it was considered fairer to issue a new TPO giving the owner the opportunity to object and for that to be considered by the Planning Committee.
- 2.5 The Planning Inspectorate have informed the Council that the appeal lodged against the refusal of felling will be held in abeyance until 1/5/2019 to allow the six month period for the new order to be considered for confirmation. Should the order be confirmed the Planning Inspectorate will then take the appeal out of abeyance and will progress it through to a decision.
- 2.6 A letter received on 7th November 2018 sets out the objection to the order by the tree owner's representative.

- 2.7 Despite the objection to the making of the Order, it is considered that the tree has special amenity value. It is recommended that the TPO be **CONFIRMED**.

3 Site Description

- 3.1 36 Chase Road is a semi-detached house thought to have been built in the early 1930`s. The property occupies a corner plot on the junction between Chase Road and Temple Road. At the side of the property is a large garden which originally extended as far as No. 2 Temple Road but the garden was subdivided in 1964 and the detached house of 2A Temple Road constructed on the bottom half of the rear garden.
- 3.2 The Holm Oak tree subject of this TPO is situated in the fairly spacious (front) garden area to the side of No.36 Chase Road. The centre of the tree is about 1.5m back from Temple Road a few metres up from the junction with Chase Road. There is a much smaller rear garden to No.36 as much of the garden space is taken up by the garage, sheds and a greenhouse. The front garden is mainly laid out with a crazy paving hard standing with occasional shrubs in the perimeter borders. On the other side of Temple Road is a large companion tree which is a Copper Beech. The Beech looks like it is nearing the end of its useful life expectancy as there are signs of branch tip retrenchment. There is a middle aged Cedar in the front of 2A Temple Road and a solitary Lime street tree in Chase Road but few other trees of note with significant landscape scale in near proximity. The area has a character of more densely built form and the few significant trees help soften the environment immensely.
- 3.3 The site is on the busy urban fringe of the town centre where it connects into the residential suburbs. There is a high footfall of pedestrians in the area as Epsom Town Centre is only 350m away and the mainline railway station is within 275m. Equally the area has a high level of vehicle movements as this is a secondary approach route to the town. The tree is visually prominent in the public realm and the high levels of traffic mean it can be seen by many people.
- 3.4 The Holm Oak tree is a middle aged specimen estimated to be 80 years old. The species can have a life expectancy of 200 years and are fairly long lived trees, although this tree does not appear to have grown significantly larger in the last 12 years. This tree has been sensitively crown reduced on a few occasions in the past and as a consequence has a spreading dome shaped crown which is wider than it is tall. Maximum height measurement is 14m while radial spread 8.2-9.5m. The stem diameter at 500mm above ground level measures 885mm.

- 3.5 Condition assessment of the tree has confirmed that it is in a good healthy condition. There is no sign of stem or basal decay. A large stem that arched across the road was removed over 15 years ago. This was undertaken as an emergency as the branch was struck by a high sided vehicle. The pruning cut of the excised stem can be seen at the trees base. There is minor decomposition of the wound surface with small areas of cubical decay but no evidence the decay is colonising deeper into the stem or root plate. Holm Oak wood is durable and resists decay well. The crown is slightly asymmetrical in form, mainly because of the stem removal on the highway side and flattening from competition with the crown of the Beech tree opposite.
- 3.6 The main trunk of the Holm Oak divides at 1.25m into 6 branches. One of the branches that divides again arches over Chase Road and has a notable seam of included bark. This branch would benefit from weight reduction in line with the pavement arc/double yellow lines.
- 3.7 The canopy is dense. Leaf size and colour is normal. Despite the expansive area of hardstanding around the base of the tree it appears to have good vitality.
- 3.8 Holm Oak trees are a Mediterranean species that have been cultivated in this country since the 16th Century. They form stately large trees, and are perfectly hardy in the South of England. They can grow to heights of 20m.

4 Comments from third parties

- 4.1 Not applicable because the tree does not overhang any adjoining neighbours the TPO has only been served on the tree owner.

5 Consultations

- 5.1 Not applicable because the tree does not overhang any adjoining neighbours the TPO has only been served on the tree owner.

6 Relevant planning history

Application number	Decision date	Application detail	Decision
18/00028/REF	Pending	Appeal	Held in abeyance
18/00538/TPO	3/9/2018	Felling of Holm Oak	Refused
13/00744/TPO	04/11/2013	Crown reduction lifting and thinning of Holm Oak	Permitted
07/00406/TPO	5/10/2007	Pruning or felling of Holm Oak	Part Permit Part Refuse
25053	1964	Detached House with garage	Permit

7 Planning Policy

National Policy Planning Framework (NPPF) 2018

Chapter 11 Conserving and enhancing the natural Environment

Core Strategy 2007

Policy CS1 Sustainable Development
Policy CS5 Built Environment

Development Management Policies Document 2015

Policy DM5 Trees and Landscape
Policy DM9 Townscape Character and Local Distinctiveness

8 Planning Consideration

8.1 Amenity Considerations

8.2 The Town and Country Planning Act 1990, Section 198 provides that Local Planning Authorities may make a Tree Preservation Order (TPO) if it appears to them to be “expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”. Tree preservation orders and trees in conservation areas planning practice guidance recommends that “TPO’s 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. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

- 8.3 To define what amenity means in practice, the Council's procedure is to use a systematic scoring system to evaluate whether a tree/s has sufficient amenity to justify the serving of a TPO. This also ensures a consistent approach to tree protection across the Borough. In considering the amenity value such factors as the size, age, condition, form, rarity, prominence, screening value, appropriateness to setting and presence of other trees are taken into account.
- 8.4 Before considering the making of this TPO two tree amenity value assessments were undertaken: - The Tree Evaluation Method for Preservation Order (TEMPO), and the Helliwell Appraisal System. These systems were used to evaluate whether a TPO in this case is defensible and justified. Under these appraisal system the tree achieved an exceedingly high score which is felt justified the making of the TPO. The amenity appraisal demonstrates that it is both expedient and appropriate to protect the Holm Oak in the interest of amenity. The tree amenity evaluation appraisals are attached to this report.
- 8.5 The Holm Oak is a healthy large spreading tree with notable dominance to its setting at this busy junction. It makes a pleasant contribution to the amenity of the landscape. The tree is a very eye-catching visual tree feature of the street, its loss would be highly noticeable, and it would create a huge gap in tree cover leaving harsher urban contours. If it were to be removed there is no doubt that it would be missed by the public.
- 8.6 Although a large tree and currently in need of pruning to at least raise the crown, the tree is well apportioned to the site. The spacious front garden affords the tree considerable growing space and it is doubtful it could ever overhang the house. The tree seems to occupier its space and with maintenance is well suited to this position.
- 8.7 Consideration of the Objection
- 8.8 The Objection to the TPO centres on the perceived injustice of the Councils action to place the tree under TPO. In particular the objector raises complaint that the tree owner has been led to believe the tree was protected when it wasn't and how this has placed them under a costly maintenance burden.
- 8.9 Officers agree that the making of a new order in these circumstances on the face of it might appear harsh, but from more detailed investigation it appears only to correct a tree identification error and protect the tree that was originally intended to be protected, indeed which all parties seem to believe was the protected tree for years.

- 8.10 Analysis of the aerial photography from 1969 show two more substantial trees in the side garden of No, 36 Chase Road. One is believed to be the Holm Oak but the other is unknown. However the unknown tree appears to be much closer to the house than what is thought to be the Holm Oak tree. The position of the tree closer to the house doesn't tally with the original plotted position of the Eleagnus in the TPO but the Holm Oak does. Also the tree in the position of the Holm Oak in the aerial photography from 1969 has the same shaped crown in profile except smaller which would be an incredible coincidence if this was a different tree. The 1981 aerial photographs show the tree that was closer to the house has gone but the tree with the same crown shape as the Holm Oak is still there. No application has been approved to fell any protected tree at the property so if the tree intended to be protected is not the Holm Oak it poses the question what happened to the protected Eleagnus?
- 8.11 The cost associated with maintaining the tree is a cost that would be incurred by the applicant even if the tree wasn't protected by TPO. Tree maintenance costs are not generally a material planning consideration. The Planning history indicates that the tree has only had consent for pruning twice excluding the incident of the damaged branch. The costs indicated to not appear that high over a 40 year period.
- 8.12 Officers have sympathy with the tree owner's ongoing maintenance liability but point out that the tree has a decent growing space because of the spatial separation from the house. For a tree in an urban environment it has caused virtually no damage to its hard surface setting. The tree doesn't appear to be causing a high degree of nuisance despite its scale.
- 8.13 In relation to the leaf litter nuisance and other detritus these issues are common place where dwellings are located in areas with mature trees. Although it is a maintenance chore to clear this kind of debris it is generally considered to be part of everyday life and not a reason in itself to prevent the protection of significant trees. The canopy of the tree dominates the side front garden but there are still areas of the garden away from the tree which can be used. The tree causes very little shading impact on the rooms of the house because of the clearance and orientation factors.
- 8.14 Nothing in the objection challenges the assertion the Council makes about the high amenity contribution that the tree provides.

9 Conclusion

- 9.1 The Holm Oak tree is highly visible in the street scene and makes a very important contribution to the verdance of the setting. The tree is something of a landmark, it is well juxtaposed with the built form, of good condition and potential longevity.

- 9.2 Officers believe that the tree definitely merits a TPO on account of its exceptional high amenity value. If the TPO is not confirmed the tree could be felled which would be harmful to the landscape character of the area.
- 9.3 Although there are sensibilities to the tree owners objection, making of the new tree preservation order only appears to correct a previous tree identification error and serves to formalise the protection of a tree which all parties believed to be the case anyway.
- 9.4 Should the TPO be confirmed it is felt this would not unduly prejudice the rights of the tree owner as their felling appeal will still be considered by the Planning Inspectorate. The appeal process normally evaluates both the case for the Council and the case for the Appellant after considering the amenity value of the tree.
- 9.5 It is the Officers view that the objections raised against the making of Tree Preservation Order No. 463 do not override the public interest to protect the trees as an amenity and natural feature.

10 Recommendation

- 10.1 The Tree Preservation Order No. 463 is confirmed without modification.
- 10.2 That Tree Preservation Order No.69 is modified to remove the reference to the Eleagnus T17.