

# Tree Preservation Order 9 of 2009

## Ditton Cottage, Ditton Park Road, Datchet, Berkshire SL3 7HZ

### 1. Background:

Tree Preservation Order (TPO) 9 of 2009 was created in May 2009 at Ditton Cottage, Ditton Park Road, Datchet in response to the Council receiving an application for the erection of two storey extensions to either side of the property (Application 09/00400). The development proposals were such that an Oak tree on the north eastern side of Ditton Cottage would be harmed should the application be allowed and implemented. The development application was subsequently refused, in part due to this likely harm, and it was deemed expedient to create a TPO to deter the removal of the tree prior to the outcome of the associated planning appeal.

The Order relates to one individual tree as per the specification below:

T1 Oak (*Quercus robur*). Located in the garden, on the north eastern side of Ditton Cottage.

### 2. Objections:

One letter of objection from Mr Simon Hawkins of Merewood Arboricultural Consultancy Services on behalf of Mr James Skinner, the owner Ditton Cottage, was received in respect of this TPO and is summarised below:

- The Oak is inappropriate for its position so close to Ditton Cottage. It is a relatively young tree with a slight lean to the north, 5.5m away from the south east corner of the cottage. The branches extend towards the house, overhanging the roof and gutter and are growing towards the windows. The tree can be expected to grow substantially, increasingly dominating the house. The need to prune the tree is already apparent and will always be so as the tree continues to grow. This necessary routine pruning will leave the tree lopsided and also places an onerous expectation on the owner to pay for regular maintenance of the tree.
- The TPO appears to have been put in place to bolster the arguments for refusing the planning application, now at appeal, rather than being for the tree on its independent merits.

### 3. Responses to the objection and justification for the Order:

Under the Town and Country Planning Act (1990) local 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 woodland in their area. The Act does not define amenity, nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, a TPO should be used to protect selected trees and woodlands if their removal would have a significant impact upon the local environment and its enjoyment by the public. Local planning authorities should be able to show that a reasonable degree of public benefit would accrue before the TPO is made or confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath. In this case the Oak tree that has been protected can be viewed from public vantage points along Ditton Park Road, contributing to the character of the area, which is in the main semi-rural. The tree will put on more growth in the future and in doing so, its visual amenity will increase.

Trees may be worthy of preservation, amongst other reasons, for their intrinsic beauty or for their contribution to the landscape. Therefore, the legislation makes no distinction between species or size. The local planning authority may make a TPO when it is believed there is a risk of a tree being adversely affected in ways that would have a significant impact on the amenity of the area. As stated above, this TPO was created in direct response to the Council receiving an application in March 2009, for extensions to either side of Ditton Cottage. The extension proposed to the northern elevation of the cottage would bring the resulting building within the minimum root protection zone of the Oak tree (T1) in the north eastern corner of the garden, at such close proximity that it would be likely to result in the tree's loss. Local authorities have a duty under the Town and Country Planning Act 1990 to make adequate

provision for the preservation and planting of trees when granting planning permission and Application 09/00400 was subsequently refused, in part, due to the likely harm to the Oak should the proposals be allowed and implemented. The Oak is the only individually important tree on the site and it was deemed expedient therefore to make a TPO to protect the tree to deter its removal prior to the outcome of the appeal against the refusal of the planning application.

The Oak tree is situated 5.5m from the north east corner of Ditton Cottage, with a slight crown bias to the north away from the cottage. The tree is not directly in front of the main elevation, but is offset to it. Had the tree been directly in front of the cottage, then its juxtaposition would be less appropriate and the tree would tend to dominate the cottage especially with its expected further growth in height and spread. However, given that the Oak is actually to the side of the main elevation, it is not considered that the tree is in an unsuitable location but rather that it helps to frame the building, providing a backdrop when viewed from the road.

The tree will not need extensive pruning in the future but only very minor pruning occasionally and it is not considered onerous on the owner to carry this out. It should be noted that the site also contains a well-managed hedge along the boundary with Ditton Park Road, which over time is likely to require more regular maintenance than the tree. The very minor pruning works required to the Oak to ensure a suitable clearance is maintained to the cottage will not adversely affect the shape of the tree and should not create an obviously lop-sided appearance.

The Council is not liable for matters relating to the normal management of a protected tree, but the Tree Team is able to offer free arboricultural advice to owners of protected trees. Anyone can apply to undertake works to a protected tree, there is no fee levied to submit an application for works to protected trees or a limit on applications made. The local planning authority would not unreasonably withhold consent for tree works which accord with good arboricultural practice, but should consent be refused any applicant has the right of appeal against the decision

The TPO has not been used simply to 'bolster' the reasons for refusing the development application for extensions at Ditton Cottage. Local authorities have a duty under the Town and Country Planning Act 1990, when considering planning applications, to take into account the presence of trees and where appropriate to seek to preserve them. This TPO has been made as a precautionary measure to deter the indiscriminate removal of the Oak tree prior to the outcome of the planning appeal.

#### 4. Sustainable Development Implications:

In terms of the sustainable development policy the recommendation contained in the report will have the following significant beneficial sustainable development implications: A positive impact on the natural environment by retaining the tree stock.

**RECOMMENDATION that Tree Preservation Order 9 of 2009 is confirmed without modification.**