

Board/Committee:	Regulatory Board
Date of meeting:	25 October 2023
Title:	Tree Preservation Order G.154 – 36 Bury Crescent, Gosport, PO12 3TZ
Author:	Borough Solicitor and Development Manager
Status:	For Decision

Purpose

The purpose of the report is to request the Board consider whether to confirm, amend and confirm, or not to confirm Tree Preservation Order G.154, where a representation/observation has been received following a period of public consultation.

Recommendation

That the Board, in accordance with the provisions of the Town and Country (Tree Preservation) (England) Regulations 2012 and despite a letter of representation/observation, confirm Tree Preservation Order No G.154 relating to a Horse Chestnut (*Aesculus hippocastanum*) at 36 Bury Crescent, Gosport, PO12 3TZ.

1.0 Background

1.1 The Tree Preservation Order G.154 relating to a Horse Chestnut located within the rear garden of 36 Bury Crescent, Gosport, PO12 3TZ was made as a provisional Order on 30 June 2023.

2.0 Report

2.1 The Order has been made because, in the opinion of the Development Manager, the tree makes a significant positive contribution to the character and appearance of the local environment. The Local Planning Authority considered the appropriateness of protecting the tree after it was made aware that the tree may be at risk.

2.2 Notice of making the Order has been served on the owners of the site on which the tree is located, the owners/occupiers of the adjoining sites that are oversailed by the tree and the Local Highway Authority. Notice has also been served on the occupiers of neighbouring properties within the surrounding area. Any person wishing to make representations to the Order for consideration by the Council had a period of 28 days to do so, with that period ending on 28 July 2023.

2.3 The Regulations provide that if a Tree Preservation Order is to continue in effect, it must be confirmed by the Authority within a period of six months from the date on which the Order is made, and after consideration of any representations received.

2.4 The Borough Solicitor has delegated authority to confirm the Order provided that no objections or observations have been received. In this case, a single letter of representation in objection to the Order was received from the owner of 36 Bury Crescent. The representation can be summarised as follows:

- (a) There are a number of other trees on Daisy Lane. Only a small percentage

of the tree's branches overhang this route and as such, the overall effect of the canopy on the area is minimal;

- (b) The vast majority of tree cover the public may enjoy along Daisy Lane is achieved from the other trees on this route;
- (c) Immediate neighbours on both sides are in "apparent agreement the tree has become too large and over-bearing for the area";
- (d) The other trees on the boundary of Daisy Lane would soon fill in any gaps, should this tree ever be reduced;
- (e) The negative impact of the tree on 36 Bury Crescent is substantial as approximately half of the useable garden remains in constant shade with sunlight never reaching the ground, thus restricting other species of plants and shrubs ability to thrive.
- (f) There is no rarity or culture value to the Horse Chestnut;
- (g) There is a potential safety risk of falling branches and large dropping conkers;
- (h) The assessment of the tree was carried out from Daisy Lane and should be reassessed from the garden where it is sited;
- (i) Having recently purchased the property with the aim to create a beautiful garden, a TPO would mean that these plans are scuppered as it is almost impossible to grow any other species of tree, shrub, plant or grass under the constant darkened and foreboding canopy where direct sunlight never reaches the ground;
- (j) The property was purchased with the knowledge that the site was not located within a Conservation Area and that there were no protected trees at the site. As a keen gardener this was the overriding factor to purchase the property;
- (k) There is no intention to remove the tree completely, but instead manage the tree and to open up the area around it to make better use of the space and to cultivate a small orchard as well as other plants and shrubs, that would be beneficial to local wildlife including bees.

2.5 In making the provisional Order, the tree was first inspected by the Council's Arboricultural Officer from Daisy Lane and its suitability for protection was assessed (TEMPO Assessment). While scoring highly, indicating its suitability for protection, it was not possible to view the full trunk to inspect for any signs of defects or decay.

2.6 Following the making of the provisional Order and in light of the observations received, the Case Officer and the Council's Arboricultural Officer visited 36 Bury Road to discuss the TPO process with the site owner and carry out a more detailed assessment. The Arboricultural Officer has confirmed that the TEMPO Assessment remains an accurate reflection of the tree's suitability for protection and that with appropriate crown management pruning, the tree can be retained in harmony with its environment.

- 2.7** It was acknowledged that there was some excessive browning of the leaves, although this a common phenomenon with Horse Chestnut trees caused by leaf miners which does not affect the health of the tree significantly. There was also some small areas of Phytophthora staining on the trunk although at present, there was no suggestion that this is a particular problem with the tree. It was however, recommended that monitoring of this would be wise.
- 2.8** Based on the assessments carried out by the Council's Arboricultural Officer, it is considered that the tree is in good health and contributes significantly to the character and appearance of the local environment making it suitable for protection.
- 2.9** Irrespective of whether a tree is protected by a Tree Preservation Order, there is an obligation on the owner of a tree to ensure it is appropriately maintained, is of good health and does not pose a risk to people or property. The making of a Tree Preservation Order does not prevent an owner from making applications to carry out works in the interests of good arboricultural management, and there are provisions to remove a protected tree where it can be demonstrated that a tree is dead or dying, which would be considered on a case by case basis. Where works to maintain a tree are proposed in the interest of good management, an application is likely to be supported.
- 2.10** The representation makes reference to the tree and its canopy shading much of the rear garden and preventing opportunities for growing other trees and shrubs, although also confirming that there is no intention to remove the tree. While this is a large tree, it is located to the northern end of a relatively large rear garden leaving much of the garden unaffected by the tree's canopy and the shadow it casts. Furthermore, the Council's Arboricultural Officer has indicated that appropriate works to reduce the spread of the canopy could be capable of support allowing further planting to take place towards the northern end of the garden.
- 2.11** The representation makes reference to the views of neighbouring occupiers (2.4 (c)). However, on the basis that no other representations have been received from the occupiers of these properties, the Local Planning Authority cannot place any weight on these assertions.
- 2.12** It is not considered that the tree poses a risk to people, wildlife or property.
- 2.13** Overall, it is considered that the significant positive contribution the tree makes to the character and appearance of the local environment, particularly the tree lined route of Daisy Lane, outweighs the limited amenity impacts highlighted within the representation received. Furthermore, there would be opportunities to appropriately manage the tree so that its amenity value is maintained and shading of the host garden reduced.
- 2.14** Members may decline to confirm the Order or they may confirm the Order with or without modification.
- 3.0 Risk Assessment**
- 3.1** The tree may be in danger of being removed or subjected to works that would affect its long term health and stability if the Order is not confirmed.

4.0 Conclusion

Given the significant positive contribution the tree makes to the character and appearance of the local environment and its apparent good health and life expectancy, it is recommended that the Board confirm Tree Preservation Order No G.154 relating to the Horse Chestnut at 36 Bury Crescent, Gosport, PO12 3TZ.

Financial Services comments:	None.
Legal Services comments:	None.
Equality and Diversity:	None.
Climate Change implications:	Trees can contribute to the capture and storage of carbon, reduce urban temperatures and reduce pollution.
Crime and Disorder:	None.
Service Improvement Plan implications:	None.
Corporate Plan:	Contribution towards making Gosport a cleaner and greener place to live work and visit, enriching communities and helping people live healthier and happy lives.
Risk Assessment:	See paragraph 3.1.
Background Papers:	Tree Preservation Order G.154
Appendices:	None.
Report Author/Lead Officer:	Simon Barnett – Development Manager