

Planning and Rights of Way Panel

Tuesday, 12th December, 2023
at 6.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3 and 4 - Civic Centre

This meeting is open to the public

Members

Councillor Savage (Chair)
Councillor Windle (Vice-Chair)
Councillor J Baillie
Councillor Beaurain
Councillor Cox
Councillor A Frampton
Councillor Greenhalgh

Contacts

ed.grimshaw@southampton.gov.uk
Ed on 023 8083 2390/ 07385 416491

ADDITIONAL INFORMATION AND PRESENTATIONS

7 **PLANNING APPLICATION - 23/01247/FUL - 65 & 67 PORTSMOUTH ROAD** (Pages 1 - 4)

Statement 1 – Local resident

Statement 2 – Agents tree officer

Monday, 4 December 2023

Director – Legal, Governance and HR

Agenda Item 7

"Good evening, we are close neighbours of the site and would like to express our broad support for the Planning Application. We can understand other objections to the loss of trees (many of which were mere shrubs when the site was vacated!), but new foliage will grow over time. We have recently planted over 100 hedge plants in our garden, nature will return.

The large tree on the boundary of Pixies is magnificent, but is choked with ivy and mistletoe and has grown dangerously high, enough to put surrounding structures in danger should it fall. We also support the reduction in height of this tree.

There is never going to be a commercially viable proposal which pleases everyone, but we think the proposed development will blend in well, as it is low rise, red brick with pitched roofing, similar to the majority of surrounding buildings.

The eyesore and resulting antisocial behaviour has gone on long enough, and will continue for years if this proposal is not accepted in some form.

Rivendale Developments have been true to their word in the installation of CCTV and proper monitoring, but they will, understandably, not continue to pay for this for ever.

We urge this department to accept the application so things can move on and we can look forward to more pleasant neighbours.

Thank you for listening.

Ben and Hoda Webb"

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65-67 Portsmouth Road Arboricultural points:

Apologies I am not able to be with you this evening, it is my youngest daughter's 18th birthday and so I have a prior commitment.

With regards the trees on the development site, a Tree Preservation Order (TPO) relates making the TPO a material consideration to some of the trees, but not all.

Current government guidance recommends a review and revocation process¹. That has not happened with this site since the creation of the TPO on the 16th October 1975. The idea that the TPO is 100% valid after 48 years is unreasonable and unsustainable.

Additionally, it is within the planning permission process² that trees subject to TPO can reasonably be allowed to be removed as part of any planning permission.

As part of the Arboricultural submission, the trees have been considered for their "quality and value" in accordance with BS5837:2012³.

To that end the tree survey identifies that, within the site, there are:

- 0 Category A trees (the best quality)
- 1 Category B tree (which is to be retained)
- The majority of the trees are C category (described by BS5837 as "unremarkable trees of limited merit or such impaired condition that they do not qualify in higher categories" – I believe that this is a reasonable description of the trees within the site)
- And 1 U Category due to its poor condition.

Essentially the quality and value of such trees within the site are indifferent and of no particular merit. It is appropriate only to protect the trees worthy of TPO and on this site, I believe, that there is only one tree worthy of the special protections afforded under the TPO process; this is the retained tree to the rear of the site, T18B lime. I am unaware of whether Tree Team have provided their view.

I am unaware of any communication from the Tree Team informing what their BS5837 Categorisation is for the trees on the site. In the absence of such information, my client can only reasonably follow advice given.

Criticism from the Tree Team also relates to the assessment of the root protection area (RPA) to maintain a tree during development. I have provided values in accordance with the current British Standard, but unhelpfully the Tree Team have commented that they disagree with the values and shape but have not aided the consideration by identifying the values

¹ <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#varying-and-revoking-tree-preservation-orders>

² <https://www.legislation.gov.uk/uksi/2012/605/regulation/14/made> ; exceptions s14.(1)(a)(iii)(cc)

³ Trees in relation to design, demolition and construction - Recommendations (paragraph 4.5.2)

and shape of the RPA that they think are appropriate. Again, in the absence of such information, my client can only reasonably follow advice given.

Further responses from the Tree Team relates to the management of T15C poplar. This tree has shed branches into the adjacent children's nursery play area due to the weight and wind loading on the branches in part caused by the mistletoe throughout the tree canopy. My client has sought to proactively manage the tree through either removal or reduction of the tree canopy. Both specifications have been refused by the Tree Team with no offer of a suitable specification for my client to follow other than to "remove the mistletoe". Mistletoe is parasitic within the tree and derives its water and nutrients from the tree; the mistletoe roots are within the tree branches. Therefore, to remove the mistletoe, we would need to remove the parts of the branch within which the mistletoe grows. This is, in effect, a reduction in the height and spread of the tree which was refused⁴ by the Tree Team.

In effect, the Tree Team are objecting to planning proposals on their aspiration of retaining a tree in its current form when the condition of the tree requires reasonable, timely and proportionate maintenance that the Tree Team will not allow. They are objecting to the proposed development on the idea of what they want the tree to be as opposed to the reality of the tree were it subject to reasonable, timely and proportionate maintenance.

I am confident that tree planting opportunities can be found throughout the site, to the front and rear, that could reasonably be conditioned as part of any planning permission. I have examples within Southampton City Council's boundaries where such schemes have been successfully implemented, and this scheme is comparable in parts.

The planning process of determining the benefits of the proposed development providing local housing needs to be considered in relation to the indifferent quality and value of the trees as they are now and the potential mitigation landscaping that can occur.

To conclude, yes, trees are to be removed to enable the development. These trees are not of significant value or quality other than T18B which is to be retained. Any redevelopment of this site will require similar tree removals and replacement tree planting and landscaping. Therefore, to refuse the current planning application on these grounds is, in my view, unreasonable.

⁴ 23/00220/TPO