

Report to the Area Plans Sub-Committee South



**Epping Forest
District Council**

Date of meeting: 15 April 2009

**Subject: Confirmation of Tree Preservation Order EPF/46/08-9
Albion Hill, Loughton**

Responsible Officer: Chris Neilan (Ext 4120).

Democratic Services: R Perrin (Ext 4532).

Recommendation:

That Tree Preservation Order EPF/46/08 is confirmed without modification

Background:

Tree Preservation Order TPO/EPF/46/08 was sealed on 23 October 2008. It protects one Pine tree at 9 Albion Hill as a result of information which suggested it was under threat of excessive pruning.

Objection to the Tree Preservation Order:

An objection has been received to the confirmation of the order from the owners of the adjacent property, 7 Albion Hill. 7 Albion Hill is also known as Albion Park Health and is a private home for the elderly. The basis of their objection is as follows:

- i) the tree is completely out of scale in relation to 7 Albion Hill;
- ii) it drops enormous quantities of leaves, twigs etc onto the adjacent gutters;
- iii) the estimated cost of clearance is excessive; the gutters need to be cleared approximately six times a year and the cost on each occasion is £120;
- iv) in the event of heavy rainfall before the gutters are cleared rain pours down the wall and causes dampness. The adjacent room continues to be redecorated because of problems of dampness; the rainfall has also caused cracks, which need to be repaired.

The objector summarises that the tree is a menace to the property and needs to be substantially cut back/lopped. He states that if this does not occur he reserves his common law rights to take proceedings for damages, which could be considerable.

Comments of the Director of Planning & Economic Development:

1. The issue to be considered is not whether the tree is causing problems but whether it is important enough that the Council is justified in having oversight and control of the solutions.
2. The tree stands on the boundary between No's 7 and 9 Albion Hill. It overhangs the adjacent property and undoubtedly will cause some problems. However, it is a visually important tree, within a few metres of Albion Hill, and its retention is highly desirable to the appearance of the local area. It is considered to have a high public amenity value.
3. Although it is not a native species, this area of Loughton is characterised by Pines of several species so the tree has a value as part of local character, as well as being an important specimen in its own right.
4. In the objection the owners of 7 Albion Hill, state that they wish to see the tree severely cut back. In principle Pines are not capable of regenerating if cut back, as deciduous trees are; on the face of it therefore there is a choice between allowing the tree to be ruined

by excessive pruning, which would be within the legal rights of the neighbour to undertake without the Tree Preservation Order, or concerning the order and dealing with applications that arise in the light of the relevant policies.

5. Scrutiny of an application would allow the Council to investigate the claims of the cost of removal of leaves from the gutter and whether repairs are actually related to the tree or some other cause. If the council withheld permission, and costs resulted, a Lands Tribunal claim might result. However, this is the case with any TPO.

Conclusion:

It is recommended that Tree Preservation Order TPO/EPF/46/08 be confirmed without modification in order that the Council may scrutinise the reasons given for pruning or felling of the tree and ensure that the policies LL8 and LL9 of the Local Plan, which ensure that there is a good reason for pruning of trees and that the trees are not spoiled without good cause, or alternatively that any felling of trees has adequate justification.