PLANNING COMMITTEE

DATE OF MEETING: 11 October 2017

TITLE OF REPORT: OBJECTION TO TREE PRESERVATION ORDER (ORD/17/00006) REGARDING THE BEECH IN THE REAR GARDEN OF 13 CEDAR DRIVE, FLEET

Report of: Head of Regulatory Services

Cabinet member: Councillor Adrian Collett, Regulatory Services

1. PURPOSE OF REPORT

1.1 To review two objections that have been made to the serving of a Tree Preservation Order (TPO) served in respect of a beech in the rear garden of 13 Cedar Drive, Fleet (see Appendix 1 for location details). The objections have been received from the residents of 9 and 11 Cedar Drive (see objection details attached at Appendix 2).

2. RECOMMENDATION

2.1 That TPO ORD/17/00006 be confirmed without modification.

3. SUMMARY OF OBJECTIONS

3.1 In summary the objections are that the tree:

- is over-dominant
- may be unsafe
- has caused damage to guttering
- has not been sufficiently maintained by the owner
- is of limited value in terms of public amenity

4. OBSERVATIONS

4.1 Over-dominance

The tree is a mature beech that stands at around 20m tall. The crown is broad and asymmetric but of good form. It has a clear stem to 3m on the side of the owner and to approximately 6m over 11 Cedar Drive. It is a fine specimen although it undoubtedly has significant presence in the garden. It is however, now close to its maximum size in terms of height and canopy spread and when set within the context of large trees in urban surroundings, it is inevitable that trees of this nature will have some impact upon the amenity of residents. In this instance the relationship is not unacceptable.

The residents of No. 11 Cedar Drive make specific reference to shading caused by the tree. Due to its size and southerly aspect, the tree does cause shading for some of the day. As the tree is deciduous however, it will shed its leaves in the autumn and cause less shading when light is at a premium.
Overall, the assessment is that no property is shaded to such an extent that they do not receive direct sunlight at least for the morning. Direct sunlight would be restricted when the sun is due-south of the tree however later on, the properties themselves will cause shade to the gardens.

### 4.2 Unsafe Tree

There is no evidence that the tree is unsafe although the allegation is that a diseased (unprotected) beech was recently felled at No. 7 Cedar Drive.

The Council had been made aware of the beech at No.7 earlier this year. An arboricultural consultant diagnosed that the base of that tree was colonised by *Ganoderma* sp. This is a significant species of wood decay fungi which degrades the heartwood of affected trees. It causes a white rot, preferentially decaying the lignin (*building blocks*) of affected trees and leaving them vulnerable to structural failure. The fungus produces airborne spores which can transfer the disease to other trees where conditions are favourable i.e. dry, dysfunctional wood. There were no signs that the beech tree at No.13 is similarly afflicted. There were no fungal fruiting bodies or *body language* that would indicate decay. The crown appeared healthy, indicating that the vascular system from root to shoot was functioning normally.

Should the condition of the tree change, anyone could apply for permission to carry out necessary remedial works. The Council routinely permits application to prune or fell trees where there is sufficient evidence to support that course of action.

### 4.3 Damage to guttering

Falling leaves and seeds can cause gutters to become blocked. This would be most apparent in the autumn. Prevailing winds would make this difficult to prevent without mutilating the tree. Gutter-guards could be used to reduce the accumulation of leaves and seeds. Gutter clearance would still be necessary as part of routine home maintenance. The blocking of gutters would not normally justify major works to protected trees due to preventative measures being able to be carried out.

### 4.4 No past tree maintenance

Whether a tree has been seen to be maintained is not a material consideration when considering the suitability of a tree for TPO.

### 4.5 Limited value in terms of public amenity

The tree is a large, prominent mature specimen located in the Pondtail area of Fleet. This area has a reasonable number of trees of similar size, many of which already protected by TPO. Despite its location in a rear garden, it is clearly visible from a number of vantage points and is visible at distance as well as from the immediate area around it.

Although the tree has been overly crownlifted over the garden of No.11, the tree still has reasonable form. As can be seen from the appended photographs (Appendix 3), the tree is of reasonable form and public views have not been compromised. The photographs clearly demonstrate that tree makes a valuable contribution to the local landscape.
5. **CONCLUSION**

5.1 The Order has been properly made in the interest of securing the contribution that the tree makes to public amenity value in the area. It is an important element in the local landscape and contributes to the local environment. Given the above, the objections are not considered to outweigh the amenity value that the tree provides. It is therefore expedient in the interests of amenity to make provision for the preservation of this tree.

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**APPENDICES**

Appendix 1 Location Plan
Appendix 2 Objections
Appendix 3 Photographs
Appendix 1 – Location Plan
Objections

Objection to TPO/ORD/17/00006 – Beech tree in the garden of 13 Cedar Drive, Fleet

Firstly, it is important to make it clear that the objection to this TPO is in no way any indication that the occupants of 11 Cedar Drive wish to remove the tree or carry out ‘extensive works’ that would be to the detriment of the safety and/or overall appearance of the tree. In fact the intentions of the occupants of 11 Cedar Drive are entirely to the contrary and previous work commissioned by them has been solely to maintain the physical integrity and appearance of the tree, resulting in a safer environment and maintaining the value to the public amenity. However, it is clear that the tree is presenting a number of issues to the occupants of 11 Cedar Drive as listed below. Secondly, whilst reference will be made to properties at 11 Cedar Drive, 13 Cedar Drive and 43 Pondtail Road this report is based on the knowledge and experiences of the occupants of 11 Cedar Drive.

The objection to TPO ORD/17/00006 is based on the following areas, which will be elaborated upon in the main body of the objection report (below):

1. **Over-Dominance** - The tree is overly large and dominates the gardens of 13 Cedar Drive (owner’s property), 11 Cedar Drive (applicant’s property) and impacts significantly on the property at 43 Pondtail Road. The crown extends approximately 25 feet across the width and 50 feet along the length of the garden at 11 Cedar Drive.

2. **Safety** – The tree is in very close proximity to the houses at 11 and 13 Cedar Drive with branches over-hanging the gardens at each property.

3. **Damage to 11 Cedar Drive** – The close proximity of the tree to 11 Cedar Drive has caused damage to the guttering that recently had to be replaced.

4. **Disease** – The tree is in very close proximity to another beech tree (in the garden of 7 Cedar Drive) which is believed may be diseased.

5. **General condition** – The tree has been maintained by the residents of 11 Cedar Drive since they occupied the property, as well as previous occupants of the address. No maintenance work has been carried out by the owner of the tree, who has refused offers to pay for work that would maintain the health and appearance of the tree (see 6, below).

6. **Limited value to Public Amenity** – The general area, and Cedar Drive in particular, has an abundance of trees of a wide variety of species; many are large (in height) and well-maintained, offering substantial benefit to the public amenity. The tree at 13 Cedar Drive is only maintained by the occupants of 11 Cedar Drive; this has led to the tree becoming lopsided and unsightly in appearance, to the detriment of the public amenity.

**Over-Dominance**

The beech tree, situated in the garden of 13 Cedar Drive, is a mature and well-established tree (age not known) which stands somewhere in the region of 80 to 90 feet in height with the crown extending to around 50 to 60 feet in diameter, across the majority of the gardens at 13 Cedar Drive and a considerable part of the garden at 11 Cedar Drive; the crown extends approximately 25 feet across the width and 50 feet along the length of the garden at 11 Cedar Drive. The tree directly abuts the rear of 43 Pondtail Road and the crown...
extends some 20 feet into that garden. As a result, very little sunlight reaches the garden at 11 Cedar Drive (this also impacts on the garden at 9 Cedar Drive) and this shading inhibits the growth of grass and plants in that garden. The tree is so large that the crown is now only a few feet from the roof of 11 Cedar Drive. As the tree has not (to the best of knowledge) ever been adequately maintained by the occupant of 13 Cedar Drive, there are a growing number of dead and/or dying branches which regularly fall from the tree (mainly in windy conditions). In the autumn the leaf and seed pod drop completely covers the garden at 11 Cedar Drive causing considerable work to remove. Aside from any issue regarding the health of the tree, the occupants of 11 Cedar Drive are very keen that the overall size of the crown is reduced significantly and uniformly to reduce the dominance of the tree and allay concerns re safety and damage (points 2 & 3, below), whilst maintaining the, albeit limited, value to the public amenity.

1) Safety
The occupants of 11 Cedar Drive have a child and pet dog that both use the garden regularly. There have been occasions when dead branches have fallen near to them. The tree is situated very close to the boundary between 11 and 13 Cedar Drive and, as the occupants of 11 Cedar Drive have tried to maintain the tree to the best of their ability, it is likely that these branches have come from the part of the tree that sits within the boundary of the property at 13 Cedar Drive. With the tree being so close to the property at 11 Cedar Drive, a number of the fallen branches have come down directly at the rear door of the property. No injuries have been sustained as the result of this but the occupants of 11 Cedar Drive are unable to use the rear garden in windy conditions for fear of branches falling. The extraordinary amount of seed pods that fall from the tree each winter and spring not only cause excessive work to remove but also present a hazard to the pet dog at 11 Cedar Drive, with the owners often having to remove seed pods that have become trapped in the dog’s paws.

2) Damage to 11 Cedar Drive
The garden of 11 Cedar Drive sustains continual damage owing to the over-dominance of the beech tree at 13 Cedar Drive. However, the significant issue regarding damage is the effect that the leaf and seed pod drop have (to date, the fallen branches have not hit the house but as the tree continues to grow, or weather conditions allow, it is only a matter of time before this is the case). The guttering at 11 Cedar Drive frequently becomes clogged with leaves and seeds, causing water to overflow onto the rear patio, damaging the slabs. Despite regularly clearing the guttering the size of the beech tree means that the volume of leaves and seed pods is excessive and this remedial activity is largely ineffective in resolving this problem. At a recent inspection of the roof, soffits and facias, the contractor discovered that the guttering had been damaged beyond repair, which was entirely due to the effect of leaf and seed pod drop. Fallen branches have damaged the patio with slabs having to be replaced.

3) Disease
To the best of knowledge, the tree at 13 Cedar Drive has never been maintained by the owner, nor has it been routinely inspected. This is not the case with other trees in the immediate vicinity and the occupants of 11 Cedar Drive have been informed that, in one such recent inspection of a beech tree in the garden of 7 Cedar Drive, signs of disease/fungal infection were found. This tree is now going to be further examined and a ‘core’ drawn from the trunk to be sent for further analysis. The occupants of 11 Cedar Drive are acutely aware that even if the outward appearance of the tree at 13 Cedar Drive gives the impression of a healthy tree, with another tree of the same species that may have
disease/fungal infection in very close proximity to it, there is a high chance that this disease/fungal infection could be spread to the tree at 13 Cedar Drive. Given this situation it is imperative that the tree at 13 Cedar Drive undergoes a rigorous inspection to assess the status of its health, particularly in relation to ‘root rot’ as a visual inspection is only likely to identify bark disease.

4) General Condition
The tree is not well maintained and attempts by the occupants of 11 Cedar Drive to conduct such maintenance through sympathetic ‘pruning’ have been thwarted by the occupant of 13 Cedar Drive. This has taken two forms; firstly a refusal to jointly fund such works and, more latterly, a refusal to have any work done to the part of the tree that sits within the bounds of 13 Cedar Drive. The net result of this is a tree that carries a large number of dead branches that fall in windy conditions and one which has a crown that is far too large for a tree in such close proximity to three houses.

5) Limited Value to Public Amenity
The concept of what does and does not have value to the public amenity in relation to trees is clearly an area of subjective assessment. The area that Cedar Drive occupies is entirely residential and there are numerous trees of a great many varieties both in the streets and gardens; there are a number of other, mature beech trees in close proximity to 11 Cedar Drive. The streets in closest proximity to Cedar Drive are Cypress Drive, Pondtail Road, Guildford Road and Hermes Close and the assertion that the tree at 13 Cedar Drive offers limited value to the public amenity refers to those parts of the streets listed that could potentially benefit from the amenity value offered by the tree at 13 Cedar Drive. The objection to the TPO in terms of public amenity is broken down as follows:

a. Visibility - The tree is noticeably taller than many of the trees in the immediate vicinity. Having said that, beyond Cedar Drive it is almost indistinguishable from the multitude of trees visible from those streets. It is visible from Hermes Close, as are many of the trees in Cedar Drive but Hermes Close is a cul-de-sac, resulting in minimal use by the general public;

b. Rarity – The beech tree is native to southern England and there are a number of beech trees in the vicinity of 13 Cedar Drive;

c. Size and Form – The tree is considerably taller than many others and in particular to other beech trees in the immediate vicinity. Owing to the unsympathetic work carried out by the previous occupants of 11 Cedar Drive and the complete lack of maintenance by the occupant of 13 Cedar Drive, the appearance of the tree is noticeably lopsided to the detriment of its value to the public amenity; and

d. Contribution to the landscape – a combination of the large amount of other trees in the immediate area and the general appearance of the tree mean that it offers very little in terms of positive contribution. This issue would be mitigated in some way if sympathetic pruning of the entire tree was to be conducted, but the occupant of 13 Cedar Drive is unwilling to allow, or pay for this on the part of the tree that is within the bounds of her property. Given that fact that the occupants of 11 Cedar Drive have significant concerns regarding issues raised in this report, if a TPO is granted, a request will be made to conduct work on those parts of the tree that are within the bounds of 11 Cedar Drive. This will have the inevitable effect of exacerbating the appearance of the tree in terms of its symmetry and further diminishing the value to public amenity.
TPO ORD/17/00006

Regarding the beech tree in the garden of No. 13 Cedar Drive and the proposed TPO order:

The previous owners of No. 11 have had works done on this tree and the present owners of No. 11 have also initiated and paid for works to the tree.

The owner of the tree at No. 13, to my knowledge:
1) Has not instigated any maintenance
2) Has not had the tree subjected to any systematic expert inspection.

My concern regarding the tree is that the owner at No. 13 does not maintain the tree and it is not regularly inspected for the removal of dead or dying branches or any fungal infection.

a) Branches can be affected through bad weather, such as wind and storms. Animals and insects may also cause damage to the tree’s branches. It is therefore important to remove branches which have already died and even those which seem to be affected and almost dead.

i) The tree dominates the gardens of No. 11 and No. 9 especially when in full leaf, and is in very close proximity to the premises of No. 11 and No. 13. It is concerning, especially in the late summer early autumn, when we have high westerly winds and storms. There have been occasions when fairly large limbs have come down into the garden of No. 11. Also, they have a child and dog who regularly use the garden. There are concerns that part of the tree may come down on a house in high winds/storms. I have witnessed the damage a beech tree can do to a house when 15B Albany Road was severely damaged, when part of a beech tree smashed into the roof and settled in the front bedroom. Fortunately, no one was hurt.

It needs to be cut in a proportionate manner

a) Pruning is a way of maintaining the tree’s size, keeping it healthy and manageable. Cutting in a proportionate way will help to enhance the tree’s appearance. It will also help to avoid deformation of the tree as time goes by.

i) The garden of No. 11 and others in the area receive very little light when the tree is in leaf. Like most other trees, the beech tree needs to be pruned from time to time. Pruning is very important to help the tree in retaining a nice, healthy look, to prolong its life and keep it safe.

This is a mature beech tree and was as such when we moved into our house at No. 9, (in 1989). I feel it is important that it is maintained in order to preserve both the health of the tree, and the safety of the persons living in the environs of the tree, and to that end the owners need to take appropriate responsibility and address the concerns in this letter.
The occupants at No.11 have been neighbourly and have advised us regularly of any work they proposed. At no time have they said they want the tree removed but just want to have it checked and maintained in an appropriate way for the safety of all.

If a TPO on this tree will ensure that the above concerns are addressed and enforced by The Council, then I support this action. If, however, the owner will not be required by The Council to maintain the tree, then I see little or no point in a TPO.
Appendix 3 - Photographs

View from Cedar Drive (summer)

View from Cedar Drive (spring)