



Appeal Statement
Lymington Police Station, Southampton Road, Lymington,
Hampshire SO41 9GH

barrell
TREE CONSULTANCY



Prepared by
Phillip Brophy HNDArb MArborA MICFor

Date: 28th March 2022
Our reference: 18327-Appeal Statement-PB
LPA reference: 21/10938

1 INTRODUCTION

1.1 Formal details: My name is Phillip Brophy and I am an arboricultural consultant with Barrell Tree Consultancy, an arboricultural consultancy practice based at Field House, Fordingbridge Business Park, Ashford Road, Fordingbridge, Hampshire. I am a Chartered Forester (www.charteredforesters.org), a Chartered Environmentalist (www.socenv.org.uk/), and a professional member and Registered Consultant of the Arboricultural Association (www.trees.org.uk). I hold the Higher National Diploma in Arboriculture obtained from the University of Central Lancashire, hosted by Myerscough Agricultural College. I practise as an arboricultural consultant dealing with all aspects of urban tree management and have specific experience in dealing with trees and woodlands in the planning system. I have been working in arboriculture since 1993. My first post was as an arborist with the FA Bartlett Tree Expert Co in the USA, undertaken as work experience in a placement year whilst studying. On completion of my qualification, I joined Southern Tree Surgeons, a national arboricultural contracting company. My first experience of public sector arboriculture was at Leicester City Council in 1997 as tree inspector for the unitary highway authority. In this post, I played a key role in the establishment of a citywide policy for sustainable tree management. In 1999, I moved to Stratford-upon-Avon District Council as assistant arboricultural officer working within a specialist heritage and design team. In that post, I was involved in the administration of tree related statutory controls against the backdrop of a rural landscape with a myriad of social economic pressures. In 2001, I took the post of senior arboriculturist for Cherwell District Council where I was responsible for the management of the council tree stock as well as ensuring the provision of a high standard of technical advice to other departments and the general public. In August 2003, I relocated to New Forest District Council as an arboricultural officer where my duties were primarily focused upon urban design and commercial development within what is a unique area of the British Isles, a large area of which is now a designated National Park. In 2006, I joined Barrell Treecare as a practice consultant bringing my public sector planning expertise to the private sector.

I ensure that I keep professionally current through subscription to the Arboricultural Advisory and Information Service and by regular attendance at seminars and conferences. I regularly present continuing professional development presentations to clients, architectural practitioners, urban designers, landscape architects, engineers and other arboricultural professionals.

- 1.2 Instruction and summary of case:** I have been instructed by Churchill Retirement Living to provide an appeal statement addressing the tree related reason for refusal (Reason No.3 of planning refusal 21/10938 - included in Appendix 1), of full application – Demolition of existing building and redevelopment of the site to form 32no. Retirement apartments including communal facilities, access, car parking and landscaping at Lymington Police Station, Southampton Road, Lymington, Hampshire, SO41 9GH, refused on 10th December 2021. Specifically, the comments of the Council's tree officer as set out in the Planning officer's report dated 8th December 2021.
- 1.3 Scope:** The primary focus of this statement is to consider the tree issues arising from the tree officer's comments that formed and directed to a recommendation for refusal on tree grounds and provide a response to the cited rationale. Specifically, my statement will cover:
- Outline of context and the submitted tree information
 - The comments of the tree officer dated 8th December 2021
 - Reason 3 of the Local Planning Authority's (LPAs) refusal notice reference 21/10938 dated 10th December 2021
 - Summary of the points of material pertinence

2 Context

2.1 **Relevant background:** I first visited the site on 12th September 2019 to assess existing trees, collect formal tree data and advise on the constraint posed by these trees on the existing building and future redevelopment intentions. As part of my work in preparing this appeal statement I revisited the site on the 1st of March 2022. During this last visit I reviewed the existing site-specific conditions and cross referenced to the submitted tree report (reference 18327-AA-JB dated 28th May 2021), in respect to its approach to proposed tree loss and the robust protection of retained trees through the intended redevelopment process. The weather at the time of this visit was overcast and dry with a strong breeze and average visibility.

2.2 **Arboricultural Impact Appraisal:** The tree report confirmed that the required tree loss will be restricted to the removal of one individual and part of one group of category C trees, T10 and part of group G12 (unremarkable trees of very limited merit or of such impaired condition that they do not qualify in higher categories). One individual tree (tree T9) will need to be pruned (limited reduction of several long lateral branches), for reasons of prudent management to establish a clearance zone of 2 m from proposed the proposed building. All other existing trees will be retained and suitably protected via the use of vertical barriers and the limited use of special precautions within the rooting areas of eight individual trees (in the removal of existing hard surfacing and the establishment of new soft landscaping).

It is my opinion that this judgement remains sound and correct, and that it is accurate to advance that the tree removals and proposed changes will have no adverse bearing on visual amenity or landscape character. As such, it is reasonable to advance that in terms of potential direct tree impact (tree losses or direct harm), the scheme does not conflict with the National Planning Policy Framework.

2.3 Potential impact on retained trees

Ensuring a harmonious relationship between built form and retained trees is a pivotal aspect of project design process. This approach was maintained throughout the design phase work of the scheme and the following key points are of pertinence:

- The internal room layouts and fenestration detail (size and location), have focused on ensuring levels of maximum natural daylight into the apartments so that potential occupant concerns regarding shading or lack of light due to retained trees can be reasonably dismissed by the LPA.

- The size and orientation of the building within the site and the areas of open space have been focused to ensure that the context of the building aligned to the surrounding and positively engaged with the nature and character of the location scene.
- The retention of the existing sustainable trees that contribute to the landscape character and site context, whilst not compromising opportunities for new structural tree planting that will ensure canopy cover is maintained into the long term.
- Restricting proposed occupied built form to areas that are outside of the site-specific calculated root protection areas (RPAs) of the existing trees. Whilst maximising opportunities to return areas of existing built form and hard surfacing back to soft landscape.

All the above elements have been clearly demonstrated throughout the submission detail. It is my opinion that the proposal achieves a sustainable relationship between its built form elements, surrounding character and visual amenity and the existing levels of tree cover.

By implementing the precautions to protect the retained trees that were specified within the submitted tree report and tree protection plan, the development proposal will have no significant impact on the contribution of these trees to landscape amenity or the existing character of the wider setting. It is therefore reasonable to set out that it aligns to the key principles of the National Planning Policy Framework (NPPF), and therein the LPA's adopted Local Plan 2016-2036, in that there should be a presumption to enable well designed developments that can be proven to be sustainable and do not result in significant detrimental harm to existing elements, features or context.

3 COMMENT ON TREE OFFICER REASONS FOR REFUSAL

3.1 My comments on the pertinent sections of the tree officer's comment set out within the planning officer report that supported the recommendation of refusal are specified below the extracts denoted in bold italics.

3.2 *'A total of 4 trees have been shown to be removed in order to accommodate this proposal... Given the intensity of the development proposed there is very little opportunity for new planting...the submitted Landscape strategy drawing JBA 21-183-SK02 only appears to show 2x trees...these trees...are unlikely to contribute to the amenity of the area.'*

It is my opinion that this contention is not a sustainable objection or reinforcement of a reason for refusal of planning permission for the following reasoning:

There is sufficient space across the site (the southern, western and parts of the northern boundary as well as the internal areas of car parking (around the proposed entrance to the building), for new structural tree planting to be established. Dialogue and engagement through the application process could have highlighted this concern and would have led to consideration by the applicant of an amendment to the landscaping plan to increase the proposed levels of tree planting across the site. Additionally, such an increase on tree planting numbers could have been formally sought by the local planning authority (LPA) via a reasonably worded planning condition set out within a planning consent.

3.3 *'The proposed retirement apartments are shown to be within 6m of the eastern group of trees. This layout is currently outside the crown spread and root protection areas of these trees although specialist precautionary measures have been specified in the submitted tree report. However, these trees are all 'maturing' they are young trees and will grow significantly more than their current dimensions. Silver Maple trees (Acer saccharinum) is very vigorous deciduous tree and grows to an ultimate height of greater than 12m with an ultimate crown spread greater than 8m. These trees will need future management to prevent encroachment/interference with the building. Routinely pruning these trees will reduce the amenity of the trees and may have a detrimental impact on the health of the tree.'*

It is my opinion that this contention is not a sustainable reason for refusal of planning permission for the following reasoning:

The denoted areas of special precaution are indicated in order to ensure that the trees (T1–T9), are robustly managed during the removal of existing areas of hard surfacing and the establishment of new soft landscaping. This proposed change will be of direct benefit to the trees as the existing rooting conditions will be substantially improved by an increase in the levels of moisture and aeration within the soil profile.

It is agreed that the nature of this species of tree (that of vigorous growth - that in my experience is often brittle and prone to structural fracture), is such that it would be reasonable to set out that future management (that of canopy reduction) would be prudent to be undertaken within a 2–3-year timescale. However, it is important to state that in my opinion such management will not be driven by the proximity of the proposed built form footprint. Instead, it is reasonable to advance that any future works would be driven by a need to robustly maintain the tree canopies to reduce the risk of future branch failures and promote a more sustainable and compact canopy form (which would maximise their contribution as visual assets within the street scene and character of the locality). It is noted that such management has been undertaken in the past (predating the imposition of the extant TPO by the landowner (assumed to be Hampshire Police Constabulary), and this can be seen on the photographic extracts below (Photographs 1–5):



Photograph 1: View of trees (courtesy of Google Streetview ©) dated **November 2008** that shows the locations of past pruning operations within the canopy extents (denoted by the five red arrows) of trees T3, T4 and T6 on the eastern site boundary.



Photograph 2: View of trees on the eastern site boundary (courtesy of Google Streetview ©) dated **September 2012**, that shows the resultant canopy extents that established following the pruning works seen in Photograph 1 and demonstrates that these such works did not adversely impact the visual contribution of the trees to the character of the street scene.



Photograph 3: Northern view of trees on the eastern boundary (tree T6 in the foreground), from **1st March 2022**, highlighting (denoted by yellow dashed line), the past pruning extents that would be appropriate for onward pruning management irrespective of proposed development.



Photograph 4: Close up detail (denoted by yellow arrows) of past pruning points on tree T6 (photograph taken **1st March 2022**).



Photograph 5: View of trees on the eastern site boundary (courtesy of Google Streetview ©) dated **July 2021**, that highlights the fully established tree canopies of the 2021 growing season within the context of the street scene.

Although no specific pruning works were set out within the submitted planning documentation (as there was no direct need for such pruning to enable the development change), the anticipated undertaking of such pruning (that of canopy reduction back to past points of pruning (predating 2008), across coming years should not be expected to have a detrimental impact the vitality, condition or visual appearance of the trees. Furthermore, such pruning would render redundant any potential concerns from future occupants of the proposed development that could be presented to the LPA in respect of these trees (specifically trees T2–T8), blocking sunlight or daylight to habitable rooms or being in unacceptable proximity to the building (existing canopy extents are already beyond 2 m from the proposed building at its closest point with anticipated pruning increasing this distance to at least 4 m).

As such it is my opinion that is unreasonable to expect that the silver maples on the eastern and northern boundaries (trees T2–T8) could be allowed to grow without periodic pruning management irrespective of any onsite development change. Furthermore, the growth response of the trees to past pruning events has been shown not to have had a detrimental impact on the vitality, condition, or visual

amenity of these trees (this is reinforced by the LPA seeing it appropriate to impose a TPO on these trees in April 2015, as it would have been inappropriate for a TPO to be served on trees that were not of a sustainable nature or condition). The tree officer is clear that they see these trees as healthy individuals (as is the case presented within the submitted planning application), that have significant potential for growth and therein can be expected to respond favourably (as was the case following past pruning events) to future management of their canopy extents. As such these trees will remain able to contribute as visual amenity features within the street scene without causing an unacceptable inconvenience to the usage of the application site (irrespective of the proposed development change).

- 3.4 *'A limb from the Cedar tree will need to be removed in order to facilitate the construction of the building. Again, ...Cedar trees have wide spreading canopies and this tree is likely to have to be continually pruned in order to be contained within a confined space.'*

It is my opinion that this contention is not a sustainable reason for refusal of planning permission for the following reasoning:

The proposed development does not significantly alter the existing proximity of occupiable structure to the cedar tree. Photographs 6 and 7 below highlight the existing situation and context of this tree. This shows the tree within what already could be described as a confined urban setting.



Photograph 6: View of tree T9 from western vantage within site (1st March 2022), highlighting the proximity of the tree to the existing building.



Photograph 7: View of tree T9 from eastern vantage (1st March 2022), highlighting the proximity of the tree to the existing building.

It is agreed with the tree officer that this species of tree commonly exhibits a wide spreading canopy form, (indeed it is often planted in open parkland setting with the intention of establishing a key ornamental feature within a designed landscape context). However, in the instance of this site although clearly planted for its ornamental nature, it should be accepted by the LPA that allowing the tree to freely establish a wide spreading canopy form was never either the intention or a viable management option, given the limited space available to this tree having accounted for the proximity of the existing building (which significantly predates the planting of the tree), and the public carriageway and footway of Queen Elizabeth Avenue.

As such it is reasonable to advance that some pruning to the lateral extents of this tree (and not the complete removal of a branch as is stated by the tree officer), would be necessary over the coming years irrespective of the proposed footprint intended for the redevelopment. The pruning that has been set out as a direct result of the redevelopment proposal is primarily advanced as a precautionary measure to provide space for construction (therein avoiding inadvertent damage by onsite works and activities). Given its current condition and vitality it is my opinion that the tree will be able to respond to such minor works without any long-term detrimental impact on its health or structural form. Importantly, as the intended pruning will be on the southern extents of its canopy, its visual appearance and landscape profile from surrounding public viewpoints will remain unchanged (see photograph 9).

The presence of this tree on the northern boundary of the site will mean that it will have no influence on the levels of sunlight available to the proposed building and instead is more likely to be seen as a valued amenity feature to occupiers of the proposed apartment building given that it will serve as a maturing landscape feature.

It is my opinion that the proposed pruning to the cedar tree will not have an adverse impact on the vitality or condition of the tree, nor will it adversely alter its appearance from surrounding public vantages. Although the pruning proposed within the submitted application is directly linked to the intended redevelopment scheme (primarily to provide construction space), it is reasonable to advance that some pruning (that of the reduction in the length of lateral branches across the tree's canopy extents would likely be needed in the future irrespective of development change. This expectation is driven by the known canopy form of the tree species coupled with the relative young age of the subject tree, its strong vitality levels and its proximity to existing onsite structures.

4 COMMENT ON REASON 3 OF LPA REFUSAL NOTICE DATED 10th DECEMBER 2021

- 4.1 My comment on the reason 3 of the notice of refusal is specified below the extract denoted in bold italics.

The proposed development, by reason of the proximity of the proposed apartments to the maturing protected trees on site, would not allow for these trees to grow into their natural size and form. This is likely to result in the future unsympathetic pruning and potential loss of these trees which would be detrimental to the amenity of the area.

The proposed development will impose no material alteration to the ability of the existing trees to grow into their natural size and form. The eastern extent of the proposed footprint is more than 8 m from the trunk positions of trees T2–T6 and currently a minimum of 2 m from the closest canopy extent (that being the western canopy extents of tree T6 – which are currently at 7 m). As such (in the absence of any future pruning needs associated with proactive and prudent management), the stated mature canopy extents for these five trees (that of 8 m as directed by the tree officer) would be achievable without there being a direct conflict with the proposed built form.

The northern extent of the proposed footprint is more than 8 m from the trunk positions of trees T7, T8 and T9, and currently a minimum of 1 m from the closest canopy extent (that being the southern canopy extents of tree T9) – which currently extends to a radial distance of 7 m, primarily as a result of several low-level lateral branches (that can be seen in photograph 8 below). The intended pruning of these lower-level branches (which would be seen as reasonable management to provide clearance to the existing pathway irrespective of the development proposal), as set out in the extant tree report will establish a sustainable clearance zone of 2 m from the proposed footprint. It is expected that on the northern aspect of the building (with immediately adjacent room layouts being set as kitchen and bedroom), that establishing this clearance zone will robustly mitigate against future occupants seeking pruning works to this tree of a nature that would be unacceptable to the council. The stated works (and indeed any future repeated works to maintain this 2 m clearance zone), will have no significant adverse impact on the health or structural

form of the tree and ensure that its appearance from surrounding vantages (such as the view that is shown in photograph 9), remains unchanged.

Photographs 8 and 9 below highlight the existing canopy extents of tree T9 relative to the current onsite building and the wider appearance of the tree from Queen Elizabeth Avenue.



Photograph 8: View of tree T9 from western vantage within site (1st March 2022), highlighting the existing proximity of the tree to the current building.



Photograph 9: View of tree T9 from northern vantage on Queen Elizabeth Avenue (1st March 2022), highlighting the setting of this tree from the public vantage.

Given that all the retained trees will be located within the communal areas of the site any future management proposals will be coordinated and advanced by the landowner (Churchill Retirement Living), rather than any specific individual occupant. This mechanism in conjunction with the control available to the LPA via the extant tree preservation order will provide a robust framework that will be predisposed to ensuring effective and sustainable management of the trees as landscape assets.

Importantly any future management aligned to management of risk and sustainable retention (such as has been set out in section 3.3), can be undertaken without compromising the vitality of the trees (largely as a direct result of their strong health and condition), and such works will not adversely alter their appearance as valued amenity elements within the existing landscape context and character which is the overriding intention of extant national and local policy in respect to trees.

5 SUMMARY

5.1 POINTS OF MATERIAL IMPORTANCE

1	Comprehensive arboricultural constraints advice was provided to the project team in September 2019. From that time, Barrell Tree Consultancy have been retained by the client to advise on tree related matters. It is reasonable to advance that the project design team considered and accounted for the existing trees within the onward design process to arrive at the submitted scheme.
2	The concern from the tree officer in respect to pruning requirements to the retained trees is noted. However, it is asserted that barring the minor pruning works sought for the cedar tree (tree T9) all other potential pruning requirements will be directly associated with future prudent management that could be justified irrespective of any onsite development change. The expected outcome of the future pruning needs of trees T2, T3, T4, T5, T6, T7, T8, and T9, will ensure that LPA remain able to robustly reject (via the statutory control afforded by the extant TPO), any potential concerns from future occupiers in respect to issues associated with tree proximity (such as fear of tree failure or obstruction of daylight/sunlight).
3	The tree officer has presented no technical detail in support of their stated position that future pruning works to the trees (which in essence would be a repeat of management operations that have been undertaken in the past), will harm the amenity that the trees provide to the area or that such works may have a detrimental impact on tree health and therein their sustainable retention.
4	The existing nature of the site in conjunction with the reasonably expected requirement for prudent and reasonable management of the trees by the landowner to maintain acceptable levels of risk, will dictate that the trees are managed to a size and dimension below which have been set out as optimum at maturity by the LPA tree officer. However, the dimension and size at which the trees would be retained will ensure that their contribution to landscape character and visual amenity remains unaltered from the current context.

As such it is my opinion that the submitted tree detail to date aligns directly to the aspirations of NPPF core planning principal bullet points 7, 12 and 15 and is compliant with New Forest District Authority Council Local Plan 2016-2036. Importantly it also aligns to the approach and recommendations set out in British Standards 5837:2012.



**NEW FOREST DISTRICT COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990
Town and Country Planning (Development Management Procedure) (England) Order 2015**

Miss Baker
Planning Issues Ltd
Churchill House
Parkside
Ringwood
BH24 3SG

Application Number: **21/10938**

Applicant: Churchill Retirement Living

Date of Application: 24 June 2021

THE NEW FOREST DISTRICT COUNCIL as the Local Planning Authority **REFUSES TO GRANT PERMISSION** for the following development:

Development: **Demolition of existing building and redevelopment of the site to form 32no. Retirement apartments including communal facilities, access, car parking and landscaping**

Site Address: **Former Police Station, Southampton Road, Lymington SO41 9GH**

This decision has been taken in respect of the plans and particulars which were submitted with the application and numbered as follows:

LY01 EXISTING FLOOR PLANS
PA 01 REV B PROPOSED SITE PLAN
PA02 REV B PROPOSED GROUND FLOOR PLAN
PA03 REV B FIRST FLOOR PLAN
PA04 A PROPOSED SECOND FLOOR PLAN
PA05 A PROPOSED THIRD FLOOR PLAN
PA06 A PROPOSED ROOF PLAN
PA09 A PROPOSED ELEVATIONS 3
10109LY-PA00 SITE LOCATION PLAN
10109LY-PA08 PROPOSED ELEVATIONS 2
JBA 21/183 - SK01 CONSTRAINTS & OPPORTUNITIES
JBA 21-183 - SK02 LANDSCAPE STRATEGY
10109LY-PA07 PROPOSED ELEVATIONS 1

HERITAGE STATEMENT
TRANSPORT STATEMENT
DRAINAGE STRATEGY
ARBORICULTURAL ASSESSMENT & METHOD STATEMENT
TREE PROTECTION PLAN
ARCHAEOLOGICAL DESK-BASED ASSESSMENT
STATEMENT ON AFFORDABLE HOUSING
GEO DESK STUDY APPRAISAL

21/10938

DESIGN & ACCESS STATEMENT
PLANNING STATEMENT
ECOLOGICAL APPRAISAL
TOPOGRAPHICAL SURVEY
NOISE ASSESSMENT (ref: R9201-1 Rev 0, 24 Acoustics Ltd dated 27 August 2021)

Reason(s) for Refusal:

- 1 The proposed development would not deliver sustainable development and not create a mixed or balanced community and is thereby contrary to local plan policy HOU1 of the Local Plan 2016-2036 Part One: Planning Strategy which seeks to create a mixed and balanced community by providing a mix and choice of homes by type, size, tenure and cost.
- 2 The proposed development is of a scale and mass that is considered to be inappropriate and out of keeping with the area resulting in an adverse impact on the character of the surrounding area and the existing character of the adjacent Conservation Area. In these respects the proposal is considered discordant with local plan policy ENV3 of the Local Plan 2016-2036 Part One: Planning Strategy and saved policy DM1 of the Local Plan Part 2: Sites and Development Management.
- 3 The proposed development, by reason of the proximity of the proposed apartments to the maturing protected trees on site, would not allow for these trees to grow into their natural size and form. This is likely to result in the future unsympathetic pruning and potential loss of these trees which would be detrimental to the amenity of the area.
- 4 The proposal makes insufficient provision for on-site parking to serve the development and inadequate turning on site to enable emergency service vehicles to turn on site and leave in forward gear. The development is likely to lead to additional pressure on on-street parking within the surrounding local area, to the detriment of amenity of the area.
- 5 The proposed development has insufficient outdoor amenity space. Such a lack of outdoor amenity space would fail to meet the reasonable amenity needs and may consequently adversely impact the health and wellbeing of future residents, contrary to the provisions of policy ENV3 of the Local Plan 2016-2036 Part One: Planning Strategy.
- 6 To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. The proposal will result in new units of overnight residential accommodation which will potentially have an adverse impact through greater nitrates being discharged into the Solent catchment area thereby having an adverse impact on the integrity of the Solent Special Protection Area (SPA) and Special Areas of Conservation (SAC). A precautionary approach is required to be adopted and in the absence of a completed Section 106 Agreement an adverse impact on the integrity of the SPA and SACs cannot be ruled out. As such, the proposal does not accord with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 in that at present there is inadequate mitigation in place. The proposal is therefore contrary