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Emma Hood
Arboricultural Officer
Environmental Planning, Cheshire East Council
PO Box 606
Municipal Buildings
Earle Street
Crewe
CW1 9HP
UK

9 September 2020

Dear Ms Hood

LETTER OF APPEAL OF PROVISIONAL TPO 2020 - 2 GRASSFIELD WAY

As the Executor of the Estate of the late Pamela Fraser, I am writing to appeal the decision to grant a Tree Preservation Order on the tree on the lands of 2 Grassfield Way (reference 2020)

We are appealing on three grounds:

- Undermining of the Structure of the Property
- Tree Condition & Habitat
- Due Process & Precedent

BACKGROUND

Pam passed away in June 2019 and had lived at 2 Grassfield Way for c.30 years. In that time, she has enjoyed good relations with her neighbours and had never objected to the various planning requests for extensions and associated tree felling, although she had felt they impacted on her amenity. Her view was that it was better to develop the estate to "modern" standards than allow it to become tied to the design style of the 1970s.

The estate on which 2 Grassfield Way is located was built in the 1970s and reflects the expectation of accommodation at that time. In the interim, many (the vast majority) of the new purchasers have sought to extend and modernise their properties.

Since Pam passed away in June 2019, we have been trying to sell 2 Grassfield Way. In that time, we have had to reduce the asking price as the consistent feedback has been that the

accommodation “as-is” is too small and too dated. Families now want more living space, en-suite bedrooms, etc. Indeed, many of her neighbours have extended their own properties as times and tastes have changed.

Anyone who has been interested in purchasing had plans to extend the property. Based on the letter Pam had sought from the Council (enclosed), we assured them that the tree on corner of the property did not have a Tree Preservation Order.

On the basis of this assurance, the current buyer, Mr Wadsworth, has gone to significant expense in obtaining architects’ plans for planning permission, etc. So, it was embarrassing to learn that Pam’s neighbours had sought a TPO back in December 2019.

We knew nothing about this application for a TPO, and have misled not only Mr Wadsworth, but all the potential buyers since late 2019. If, as a courtesy, Pam’s neighbours had let us know the level of local interest to retain the tree we would have acted differently and briefed prospective buyers that this might impact their plans. As it is, we have wasted peoples’ time and money.

The confirmation of the TPO will significantly reduce the flexibility in terms construction method of any developer of the property. As you will appreciate, a TPO places a significant burden on the landowner and most contractors, fearing the significant fines and oversight, will steer clear of work in the vicinity of a tree with a TPO. The additional cost of piling and rafting makes the cost of purchasing 2 Grassfield Way potentially uneconomic.

GROUND'S FOR OUR APPEAL

UNDERMINING OF THE STRUCTURE OF THE PROPERTY

As you will see from the attached report. The tree, now subject to a provisional TPO, is adversely affecting the foundations of the property. Indeed, Pam sought confirmation from the Council that the tree was not subject to a TPO because she was minded to remove it given the apparent damage to the property.

She also worried that the tree shed limbs in high winds and, given it overhangs the footpath and road, was concerned about the danger to passers-by and road users.

However, being elderly she never felt able to manage the felling process. Sadly, she passed away before she was able to remove the tree.

TREE CONDITION & HABITAT

As you will see from the report we commissioned from Cheshire Woodlands (sent under separate cover), the tree itself is in poor condition and requires attention in order to preserve it. Contrary to assertions made, there is no evidence of bats roosting in the tree.

DUE PROCESS & PRECEDENT

We feel that the letter received from the Council (attached) provided sufficient comfort for the Executors to market the property without notice of a TPO. The fact that a TPO request was initiated in December 2019 without reference to the executors has resulted in potential buyers being misled. We believe, having been in receipt of a Letter of Comfort, the Council was under a Duty of Care to inform the Executors when an application for a TPO was made. As a result of the TPO the sale price has been further reduced and the Executors have paid IHT on the estate in excess of that properly due.

From the TPO map for the area it is evident that the TPO at 2 Grassfield Way is standalone, save for those properties that abut the ground originally sold to create the estate. The area previously had many other trees of similar civic amenity. They have all been removed; mostly by owners on the estate seeking to develop and extend their properties. We are now in the position whereby those who have extended their properties, and likely removed trees, are preventing one of the last unmodernised properties being developed.

WAY FORWARD

We are not seeking to remove the tree. Indeed, we spoke to East Cheshire Council before the granting of the provisional TPO to offer a legally binding guarantee not to remove the tree in return for it not being granted a TPO. This offer was to ensure any buyer has sufficient degrees of freedom for the development of the property while not being constrained by the onerous conditions of a TPO.

We are proposing the following compromise, which is the same as we have previously offered East Cheshire Council:

- 1) We provide a binding letter confirming the tree will not be removed,
- 2) The TPO is not Confirmed
- 3) A covenant regarding "no-removal, no-damage" of the Tree is reflected in any Sales & Purchase Agreement relating to 2 Grassfield Way
- 4) This covenant is added to the Deeds of 2 Grassfield Way

If you have questions, I would happy to discuss them with you.

Yours sincerely,



Phil Hobbs
Executor for Pamela Fraser

Enc. Structural Engineers Report

Letter from Macclesfield Borough Council



Anthony Roylance

Chartered Civil Engineer

Eur. Ing. A. Roylance, C.Eng. M.I.C.E

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19th August 2020

2, Grassfield Way
Knutsford
WA16 9AF

Attention of Paul Wadsworth

Dear Sir

Re: Engineer's Report on 2, Grassfield Way Knutsford, WA16 9AF

As requested, we visited the above property on 18th August 2020, so as to assess the impact of an adjacent, mature, oak tree, on its structural integrity.

The detached property is of 'cross wall', construction, typical for its time of construction. This two-storey, detached, dwelling accommodates a single storey garage structure extending from its right-hand gable (viewed from front).

Adjacent to and standing approximately five metres away from the side wall of the garage, stands a mature oak tree. We have been informed that this tree is subject to a Tree Preservation Order.

Inspecting the property internal areas, we noted cracking to the gable wall panel within the front bedroom area, we further noted, a slight run down of the staircase towards the gable wall, to which it stands adjacent.

Inspecting within the garage area, we noted a slight run down of its floor construction towards its gable wall; in accommodating this slight settlement, the concrete slab has cracked at a central position, adjacent the manhole.

It is our considered opinion that the integrity of the property is being compromised by the adjacent mature Oak tree and we would recommend that the property and in particular the garage and right-hand gable wall are suitably underpinned.

Should any extensions be undertaken to the dwelling, particularly to its right hand gable then a system of mini-piles and reinforced concrete ground beam foundations will need to be incorporated within the work

We trust this meets with your approval

Yours faithfully

A Roylance

Eur. Ing. ANTHONY ROYLANCE C.Eng. M.I.C.E
Chartered Civil Engineer



Borough of Macclesfield

Planning

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Date: 18th September 2008

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Dear, Mrs Fraser

Thank you for your enquiry regarding trees within your boundaries.

I can confirm there are no Tree Preservation Orders in place at 2 Grassfield Way, Knutsford, nor is it part of a Conservation Area.

Should you have any further queries in the meantime, please contact me on the above telephone number.

Yours faithfully,

Gary Newsome
Assistant Arboricultural Officer

