

**Application No :** 17/04751/TREE

**Ward:**

Chelsfield And Pratts Bottom

**Address :** Land Adjacent To Little Lillys Warren Road  
Chelsfield Lane Orpington

**OS Grid Ref:** E: 548084 N: 164319

**Objections:** YES

**Applicant:** Mr M Ellis

**Description of Development:**

Remove all trees situated along the boundary fronting Warren Road.

**Proposal**

This application has been submitted to the Council as a required notice under section 211 of the Town and Country Planning Act 1990. The Council is therefore given an opportunity to consider applying long term protection by serving a new Tree Preservation Order (TPO).

This application is therefore dissimilar to other planning applications in that it cannot be refused or consented to. It is therefore not assessed in line with any other Council policy or Acts of parliament. If the Council decide to object to the proposals, the only way of preventing the works from proceeding, is to serve a TPO.

Members should be mindful of the considerations of assessing trees with regards to applying a new TPO. This primarily considers the maturity of the subject trees, public visibility, practical retention span and the established threat level.

**Location**

The application site comprises a field that appears to have been utilised in the past to home horses. The land is bounded to the north by Chelsfield Lane and to the south by Warren Road. The land is neighboured by two residential plots, both to the east and west.

**Consultations**

Nearby owners/occupiers were notified of the application and 22 representations were received which can be summarised as follows:

- The application is in contravention of Bromley Supplementary Planning Guide. Clauses 3.35, 3.38, 3.39 and 3.40 are referred to.
- The wording around conservation areas stipulates that no hedgerows will be removed under the restriction.
- The hedge forms the boundary of a historic parish boundary and is contained within the conservation area.
- The application is in conflict with the Bromley Council Supplementary Planning Guidance of the Chelsfield Village Conservation Area; items 1.8, 1.10, 1.13 and 1.14.
- The proposals will diminish the character and appearance of the village. The proposals will have an adverse physical and visual impact on the openness of the Green Belt.

- The recent appeal decision in respect of a proposed development at the site drew special attention to the trees and hedges along the boundary of Warren Road.
- Clearing of hedgerows which are important to local wildlife would set a dangerous precedent in this village.
- The ancient character of Chelsfield Village, being a conservation area in an area of outstanding natural beauty, should protect against random development.
- The removal of the hedge would contravene the Hedgerows Regulations 1997.
- The Local Planning Authority should ensure no red book protected species are compromised.
- Compliance with the Wildlife and Countryside Act 1981 is referred to. A survey is recommended prior to any further consideration.
- The hedge is of ecological importance.
- The trees/hedgerows are invaluable to shield noise, dust etc. from housing and leisure facilities.
- An objection covering the above points was made on behalf of the Chelsfield Village Society.

### Response to objections

The objections received make a list of arguments, however, this would only be taken into consideration as part of an application for full planning permission. The points made as part of refused planning permission ref. 16/03067/FULL1 and the subsequent appeal decision, have no relevance in the assessment of trees subject of Section 211 notices.

The police are responsible for enforcing breaches of the Wildlife and Countryside Act 1981.

### **Considerations**

Only trees over 7.5cm in diameter are covered by the protective legislation of the conservation area. Hedges, shrubs and other plants are therefore discounted from consideration.

It is clear from the proposals that all vegetation along the southern boundary of the site will be removed. Only trees subject to the conservation area legislation are therefore restricted at this moment in time. The land owner has already been informed that the hedgerow does not meet the criteria of an ancient hedgerow assessment. This assessment has been carried out by Council officers as part of enforcement case 17/00456/GENERA.

The boundary trees here have been maintained at a uniform height in the past at approximately 3m. Site observations reveal that no maintenance has taken place in recent years and some trees have therefore formed within the hedgerow.

### **Conclusion**

This application has clearly been made to avoid a technical breach of the conservation area legislation. It has been established by Council officers that the removal of hedging and shrubs along this part of the application site would not be in breach of protective legislation.

An assessment of any trees with potential to meet the specification of 7.5cm diameter, measured at 1.5m above ground level has taken place.

No trees would merit the making of a new TPO and therefore the application of a TPO would not be justified or defensible. A TEMPO (Tree Evaluation Method for Preservation Orders) has been appended to the file. This method applies a numerical value to the assessment criteria. This primarily considers the maturity of the subject trees, public visibility, practical retention span and the established threat level.

It is recommended that no TPO be applied in this instance.

A draft TPO has been provided in the event members decide to make a TPO. The only applicable TPO in this circumstance is an area order covering the trees present within the hedge, situated along the southern boundary. This would have to be served by hand by 24<sup>th</sup> November 2017 to meet the timescales of the notice period referred to within section 211 of the Town and Country Planning Act 1990.

**RECOMMENDATION: NO OBJECTION.**