

Simon Pryce Arboriculture

Report

Client: Mr J Kirby [Boys and Girls Nursery, Stanmore]

Site: Cottrell Cottages, 57 - 65 The Broadway, Stanmore, HA7 4DJ

Subject: Tree preservation order covering two trees to the rear of the building.

Inspection date: 9 January 2009

Report date: 12 January 2009

Reference: 08/160

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I Introduction

- 1.1 This report has been prepared on the instructions of Mr J Kirby, who holds the lease on Cottrell Cottages, 57 - 65 The Broadway, Stanmore, HA7 4DJ, in connection with a tree preservation order [TPO] that has recently been made on two trees growing at the rear of the building.
- 1.2 I have been asked to inspect the trees and to comment on their suitability for protection, in particular their condition and public amenity value.
- 1.3 The site was visited and the trees inspected on the afternoon of 10 January 2008, accompanied by Mr Kirby. The inspections were visual and made from ground level, with no test boring or climbing as these were not warranted.

2 Background

The site

- 2.1 Cottrell Cottages is a two storey building and is on the south side of the A 410, The Broadway, a short distance west of its junction with the A4140 Marsh Lane, which joins from the south. Both roads carry significant traffic throughout the day and the junction is controlled by traffic lights. The Broadway is lined mainly by shops and other commercial premises, so is also well used by pedestrians. Many of these have residential flats on the upper floors.
- 2.2 Cottrell Cottages fronts directly on to the pavement and has a tarmac surfaced car park at the rear. This can be reached by narrow lanes running from the main road past each end of the building. These also provide access to the car park behind Jonathan's which is to the east, next to the junction with Marsh Lane and Pizza Express to the west. These car parks are all private and, at the time of my inspection, between 12 noon and 1p.m. on a weekday, they were not busy.
- 2.3 The building is listed, but the site is not in a designated Conservation Area.

Sequence of events

- 2.4 In September 2008 Mr Kirby enquired whether or not the trees were protected; Harrow Council's response was that they were not and they enclosed a list of approved tree contractors with their reply.
- 2.5 In November the application was made to convert the cottages into a day nursery and the council responded by making a tree preservation order on the birch and ash growing at the rear of the building. Despite numerous requests a copy of the TPO or the Regulation 3 notice that should accompany it have still not been supplied. The only available document is a letter from the council dated 18 December 2008, justifying the making of the order. They comment that they are: "*under a duty imposed by Parliament to look at the need to preserve trees when an application is submitted*".

3 Tree descriptions

Ash

- 3.1 This is growing on the western side of the car park next to the access lane, about 5m back from the end of the building. It is about 13m high and has a single trunk that leans slightly to the south. The first branches start at about 3.5m and the crown is a broad dome with a radial spread of 6 - 7m, so the branch ends overhang the back of Cottrell Cottages and the roof at the side of the Pizza Express building. The twig growth is reasonably healthy looking, but there is some dead wood scattered through the crown. One long limb on the north west side has started to subside under the weight of the end growth, this is shown by the new shoots along its length growing up into the gap above. There is a large wound under the lowest main limb on the south side, evidently caused by vehicles entering or leaving the car park. A smaller branch next to it has had the end broken off in the past, probably by the same cause. There are no signs of pruning or other work. The tree's size suggest that it is about 60 years old.

Birch

- 3.2 This is growing behind the middle of the building and is about 12m high with a single trunk 290mm in diameter. The first branches start at about 3m and it has a slender crown typical of this species, with a radial spread of 2.5 - 3m. The trunk divides into two at about 4m, the fork is narrow but reasonably well formed. There are no signs of any pruning. The tree's size is consistent with an age of 30 - 40 years.

4 Appraisal and discussion

Grounds for making a TPO

- 4.1 Guidance on this is given in Tree Preservation Orders, a guide to the law and good practice, published by DETR [now DCLG] in 2000 and this is referred to below. It is commonly known as the blue book after the colour of the cover. Extracts from it and other documents are italicised.

Amenity value

- 4.2 The legislation does not define amenity, but the blue book notes that TPOs should be used to protect selected trees if their removal would have a significant impact on the local environment and its enjoyment by the general public. A commonly used measure of public amenity, although it is not officially recorded is that trees should be significantly visible to five households or an equivalent number of people.
- 4.3 Both trees are fairly natural looking, although the ash has been disfigured by the large wound in the underside of the lower limb and the broken one next to it. They are prominent in the immediate vicinity and will be readily visible to anyone using the access lanes behind the buildings. However the buildings form an almost continuous high screen along the south side of The Broadway. The tops of the crowns are just visible above the roof line and part of the ash can be glimpsed if looking into the lane beside the building from directly opposite but they are not prominent. The ash just can be seen from a short section of Marsh Road, through the gap between Jonathan's and Chartridge Court to the south, but is set well back and largely hidden by the buildings and other trees. The removal of these two trees would have little visual impact in the wider area and would be mitigated by the presence of other trees, including some sycamores set back from the ash.

Condition of the trees - implications of retaining them

- 4.4 The ash is in fair health, but the wide crown means that it is starting to dominate its immediate surroundings despite not being widely visible. Although there are no signs of an immediate risk of failure it has some structural defects, including the large wound, which will start to decay, weakening the main limb. More seriously the limb on the north west side has started to subside under the weight of the end growth, a phenomenon that is fairly common in some open grown trees. This will be exacerbated progressively by the increasing weight of the new shoots that are being promoted by the increased light levels as the gap between the limb above increases. As the tree is almost on the boundary this has safety implications for third parties, not just owners and users of the Cottages.
- 4.5 In addition the crown is spreading close to the roofs of the nearby buildings; leaves in gutters are already a problem and in time there could be direct damage, particularly as the branch ends move in high winds.
- 4.6 These problems could be alleviated by reducing the ash, a point that was made by the Council's tree officer. However this would make it smaller and less prominent and, even with work done to a high standard, it would still look unnatural. It would respond by sprouting heavily and new growth would need to be cut back regularly in order to contain its growth. British Standard 3998: 1989, Recommendations for Treework, advises against crown reduction in principle unless it is a one off reshaping operation or there are compelling reasons for it, such as the need to retain a particularly valuable specimen. This does not apply here and the problems associated with the tree far outweigh the limited public benefits it would provide if kept in a reduced form.
- 4.7 The birch is smaller and farther from any public areas. It will also need some pruning to clear the building and reduce leaf litter, although the scale of the problem is less than with the ash.
- 4.8 There are no signs or reports of tree related damage in the buildings, but from experience of numerous subsidence cases in the area, some within a few hundred metres of this site, the local sub soil is London clay. This creates a potential for subsidence in the building if roots extend below the foundations and cause soil drying and shrinkage. This is a particular risk with the ash, which is relatively young and capable of growing significantly larger, with its water uptake increasing in the process. Damage in a listed building of this age would be more complex and costly to resolve than in most houses. Reducing the trees and maintaining them at reduced sizes would lessen their water uptakes but they are too close to the building for it to be reliable. As the trees are younger than the building and there are no signs of movement it to date removing either or both of them at this stage is unlikely to cause excessive soil swelling, or heave.

Procedural matters

- 4.9 The power to make TPOs is given by section 197 of the Town and Country Planning Act of 1990, which states that local planning authorities have a duty to do this where it is "*expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.*"
- 4.10 When a TPO is made there is a 28 day period within which objections can be made. From the letter from Harrow it would appear that the order was made on 16 December, so this expires on 13 January. At the time of writing, 12 January, neither the order nor the regulation 3 notice have been served. The letter refers to the TPO, but has no status in itself. Even allowing for possible delays over the Christmas break the legal position is not clear. This is unacceptable.

- 4.11 The leaseholders also object to Harrow advising initially that the trees were not protected, even supplying a list of contractors, then making the TPO a short time later. Their letter seeks to justify this by stating that they have a duty to protect trees when planning applications are submitted. Trees can be a consideration in planning applications, but the duty imposed by the Act to protect them is not restricted to these circumstances, it applies whenever they consider trees to be at risk. Section 3.5 of the blue book states [my underlining]:

"It may be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate. In some cases the LPA may believe that certain trees are at risk generally from development pressures. The LPA may have some other reason to believe that trees are at risk; changes in property ownership and intentions to fell trees are not always known in advance, and so the protection of selected trees by a precautionary TPO might sometimes be considered expedient.

- 4.12 It is clear that Harrow were aware of the intention to work on the trees, or possibly to fell them, well before the application was made. From the foregoing it is hard to see any logical reason why they did not make the TPO at that time.

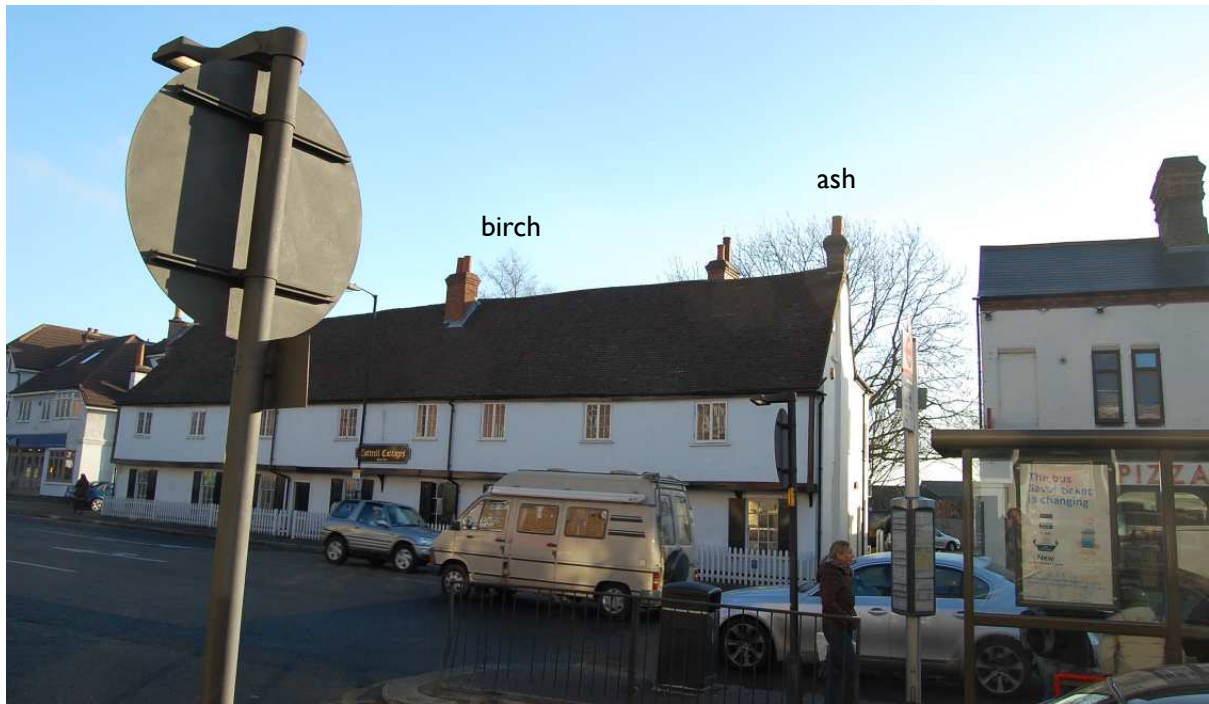
5 Summary and conclusions

- 5.1 The trees are prominent in the immediate vicinity, but are largely hidden from the surrounding roads by the buildings and other trees. Their removal would have little impact in the wider area.
- 5.2 The ash has a number of defects and would need crown reduction and regular recutting if retained. This would reduce its amenity value further and the problems associated with keeping it far outweigh any public benefit.
- 5.3 The potential problems with the birch are smaller, but it would also need pruning and regular maintenance if retained.
- 5.4 A copy of the TPO has still not been served, despite the period for objections almost being over. The council's duty to protect trees is not confined to cases where there is an imminent threat and there is no reason why they could not have made it when first approached.

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Illustrations



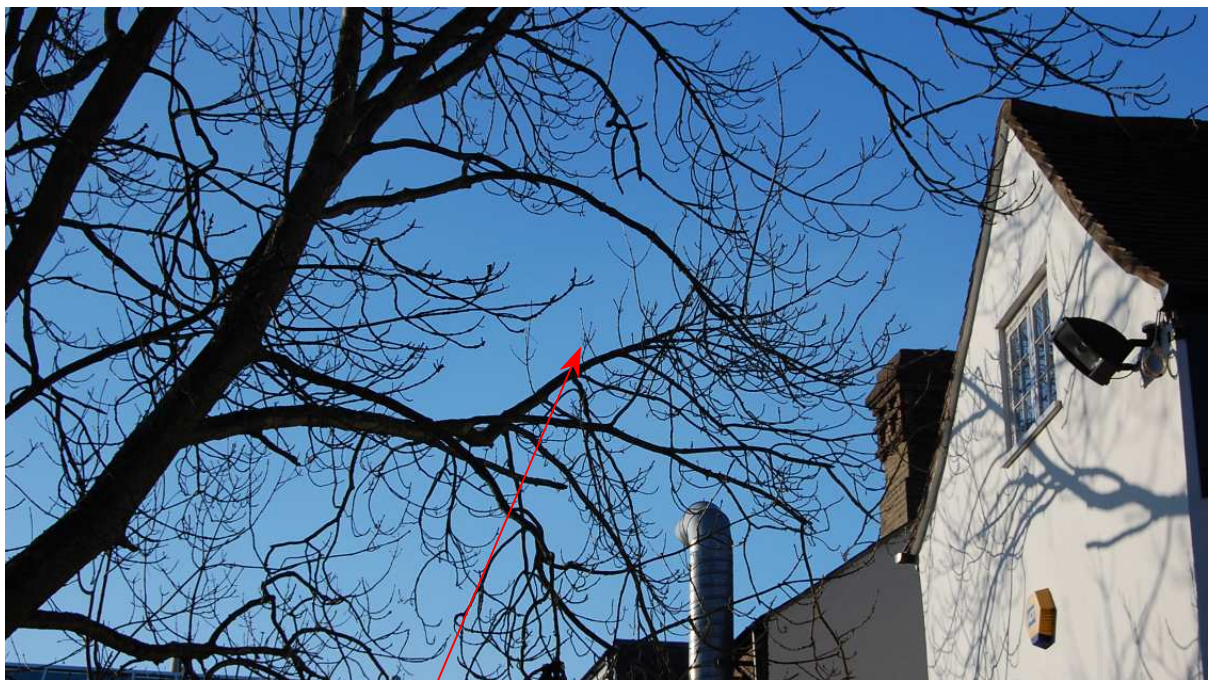
1] View from across The Broadway



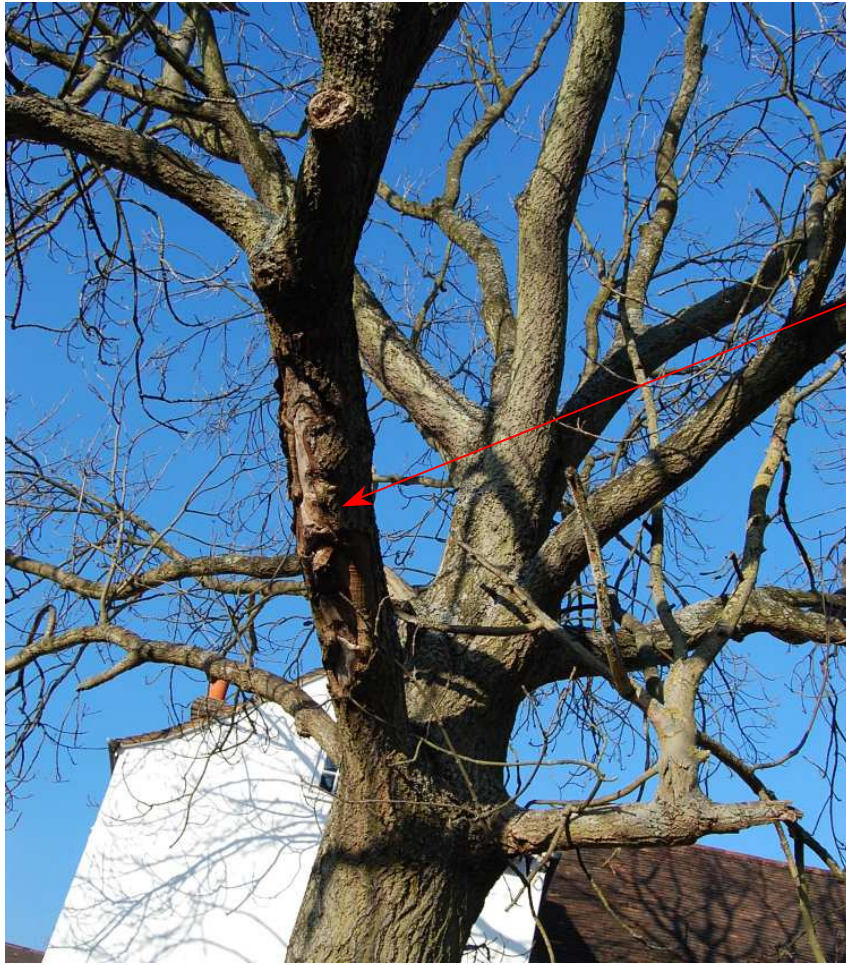
2] View from Marsh Lane, from here the birch is hidden by the white building.



3] Ash, Cottrell Cottages are to the right of the tree. Foliage at top right is the birch, that at the left is other trees.



4] Subsiding limb with new shoots growing up into the gap.



5] Wound on the underside of a main limb of the ash.



6] Birch and the back of the building.