

Objection to Planning Application A/64/18/T

Caffyn's / Audi New Car Showroom and Service Facility

I am writing to object to the above subject planning application.

Government Inspector's Appeal Decision

In the Appeal Decision date 11 October 2016, (Appeal ref: APP/C3810/W/16/3151980) the Government Inspector noted the following:

Para 7.

"There are two copper beech trees close to the southern boundary which are protected by a Tree Preservation Order "(TPO/A/3/15).

Para 30

"...However, the revised landscaping plan shows that there would be the introduction of new landscaping along the southern boundary as well as the retention of the two copper beech, the Monterrey Cypress and poplar trees, which would filter views of the building and parking areas, whether of vehicles on display or of customers' cars."

Para 55

"...In order to ensure flooding does not occur, as recommended by the Flood Risk Assessment submitted with the application, a surface water drainage scheme should be completed prior to first occupation, although details of the scheme itself need to be agreed prior to implementation to ensure that the agreed details are incorporated into construction in a satisfactory manner, particularly with regard to trees."

Para 57

"...In order to ensure the health and longevity of the identified trees on site tree protection measures need to be implemented prior to works commencing on site and maintained for the construction period."

In the **Schedule of Conditions** of the appeal decision it states

Para 5

"No equipment, materials or machinery shall be brought on site in connection with the development hereby permitted, and no works, including site clearance or any other preparatory works, undertaken until the tree protection measures set out in as shown in Figures 2 and 3 of British Standard BS 5837:2012 'Trees in relation to design, demolition and construction - Recommendations' have been

erected on site in locations in accordance with details submitted to and approved in writing by the local planning authority and agreed in writing as complete by the local planning authority. The protection shall be retained until the development is complete and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the prior written consent of the local planning authority."

Furthermore, the applicants **Arboreal Method Statement** prepared by PJC consultancy 3rd April 2017 (A/77/17/DOC) PJC ref: 4386/17-03 Rev1 states:

"In order to safeguard retained trees on site during development works it is necessary to implement a tree protection strategy. The objective of the following arboricultural method statement is to provide protection methodology for retained throughout the proposed development, including the above ground and below ground parts of the trees as well as their rooting medium".

Certain conditions were imposed as a part of the application (A/162/15/PL) approval following an inspection dated 21 December 2015, performed by Dafydd Lloyd, Arun District Council Tree Officer and specifically:

- *The implication of effective ground protection must be achieved before any construction works commences. This protective fencing must be erected and kept in place for the duration of the development works.*
- *Once the protective fencing has been erected, the Local planning authority arboricultural officer must be contacted to ensure the fencing is correctly placed. This fencing must be erected and kept in place for the duration of the development works.*
- *When excavating for the new developments foundations any root structure exposed with a diameter over 25 mm should be retained. If the operators wish to remove roots of over 25mm in diameter, then the LPA arboricultural officer must be informed to supervise any root pruning/removal.*

Following several site inspections spanning 27 July - 21 September 2017, by Arun's Consultant Arboriculturist, it was concluded in the consultant's report Date: 21st September 2017 that:

"I am currently unable to sign off on the Conditions relating to tree protection because the fencing is 'Not Fit for Purpose' as required by BS5837: 2012 and as stipulated by the Planning Inspector that they are to comply with the PJC AMS report which clearly defines the standard as that of Figure 2 in BS5837".

Despite the applicant agreeing to comply with the advisory provided by Arun's officers, a further inspection report issued 23 April 2018 by Mark Warwick Arun's Tree Officer / Parks and Greenspace Team noted in regard to T2, that:

"Fragments of recently torn roots up to 50mm diameter were clearly evident in this area."

I cannot find any documentation where the applicant has advised the LPA arboricultural officer to make their self be available to supervise any root pruning/removal. If no such notification was provided this is a clear breach of the imposed condition.

If a notification was issued by the applicant but ADC failed to provide the required supervision, then ADC must be held responsible for failure to observe its own condition and the resultant damage to the protected trees.

In the same report Arun's Tree Officer

"Tree Protective Fencing throughout the site is absent in places and where partially installed to standard is not 'fit for purpose' and so does not provide the necessary level of protection for retained trees. It would appear that prepositioned fencing has been altered and in some cases removed entirely to facilitate construction work without the agreed constraints. The developer has failed to meet their obligations in respect of tree protection as detailed in the condition."

The Tree Officer goes on to recommend:

"I am unable to sign off on this condition as they have demonstrably failed to meet their obligations. In the absence of any practical measures that would allow for adequate preservation of T1 and T2 in the landscape, I cannot seek further input from their appointed arboricultural consultant and now leave you to decide whether you wish to pursue the matter of a breach of Planning Condition here."

Clearly without close supervision of conditions imposed by the Council, the applicant is likely to take liberties in order to maintain the project schedule which seems to be the case here. The applicant has not provided any additional information to support the case that the trees have been irreversibly damaged.

Caffyns have clearly been manifestly negligent of their obligations in terms of the TPO, the Government Inspector's decision and the LPA imposed conditions probably in pursuit of ensuring these trees are effectively 'killed' despite a TPO being in place. There is no evidence that the trees are irreversibly damaged and therefore left alone and in place this hardy species may recover and should be given the chance to do so.

Section 210(1) and section 202C(2) of the Town and Country Planning Act 1990 provide that anyone who, in contravention of a Tree Preservation Order

- Cuts down, uproots or wilfully destroys a tree; or
- Tops, lops or wilfully damages a tree in a way that is likely to destroy it or
- Causes or permits such activities.

The probability that Caffyns has been culpable of neglect in respect of their planning obligations would appear to be irrefutable.

The council needs to take several courses of action in order to ensure that the trees continue to be protected and that this situation does not happen again.

- Before making any decisions on this application ADC needs to fully investigate and establish how and why this situation has occurred and make public the results.
- Caffyn's or those found to be negligent / guilty should be taken to task and where appropriate prosecuted (criminally or otherwise) in accordance with the relevant laws / statutes.
- The decision by the council to approve this dubious application should be declined and the trees be given time to recover.
- If the trees are proven to be irreversibly damaged beyond any reasonable doubt they should be replaced with like for like trees at the applicants expense.

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