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PLANNING COMMITTEE

17 MAY 2018

SUPPLEMENTARY PAPERS

TO: ALL MEMBERS OF THE PLANNING COMMITTEE

The following papers have been added to the agenda for the above meeting.

These were not available for publication with the rest of the agenda.

Alison Sanders
Director of Resources

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4. URGENT ITEMS OF BUSINESS	3 - 8
Any other items which, pursuant to Section 100B(4)(b) of the Local Government Act 1972, the Chairman decides are urgent.	

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**PLANNING COMMITTEE
17 May 2018**

**CONFIRMATION OF TREE PRESERVATION ORDER (TPO) 1263
Land adjacent to Sunrise, Birch Lane, Ascot, Berkshire - 2017**

(Director of Environment, Culture & Communities)



1. PURPOSE OF DECISION

- 1.1 Under section 198 of the Town and Country Planning Act 1990 and section 200 of Town & Country Planning (Tree Preservation) (England) Regulations 2012, the Council has made a Tree Preservation Order (TPO) to retain and protect trees that are assessed to be of amenity value and were judged to be at expedient risk of removal or other adverse effect. Representations have been made to the Council and they are the subject of this report.

2. RECOMMENDATION

- 2.1. That the Committee confirms this Tree Preservation Order in its current form.

3. ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

3.1. Borough Solicitor

- 3.1.1. Guidance on Tree Preservation Orders and their making and confirmation is provided by the Department for Communities & Local Government (DCLG) through the National Planning Policy Framework as Planning Practice Guidance (PPG) titled 'Tree Preservation Orders and trees in conservation areas'. That

guidance indicates that in the Secretary of State's view, TPO's should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. A Local Planning Authority should be able to show that a reasonable degree of public benefit would accrue before TPO's are made or confirmed.

3.1.2. The guidance advises that three factors in particular are of relevance, namely:-

- *Visibility* - The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.
- *Individual, collective and wider impact* - Public visibility alone will not be sufficient to warrant an Order. The authority should also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:
 - *size and form;*
 - *future potential as an amenity;*
 - *rarity, cultural or historic value;*
 - *contribution to, and relationship with, the landscape; and*
 - *contribution to the character or appearance of a conservation area.*
- *Other factors* - Where relevant to an assessment of the amenity value of trees or woodlands, the authority may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

3.2. Equalities Impact Assessment

3.2.1. Not applicable

3.3. Other Officers

3.3.1. Chief Officer; Planning, Transport and Countryside has noted the report.

4. **BACKGROUND / RELEVANT PLANNING HISTORY**

4.1. The site is a long, rectangular plot of land between two residential properties. The site is undeveloped and has remained unmanaged such that the site is predominantly covered in emerging woodland and is consistent with the character of the surrounding landscape.

4.2. The subject plot of land is already protected by TPO 606 (of 2004), an 'Area' designated TPO which also covers adjoining residential plots either side ('Silvertrees', 'Sunrise' & 'Tanglewood').

4.3. The site has a history of planning applications which sought to develop the land by erection of agricultural buildings & greenhouses to run a market garden, the most recent applications include: -

- 05/00045/FUL Refused and Dismissed at Appeal
- 14/01172/FUL Refused

- 15/00500/FUL Refused
- 16/00780/FUL Refused and Dismissed at Appeal
- 17/01226/FUL Refused
- 18/00224/FUL Current

- 4.4. Application 16/0780/FUL resulted in an appeal being dismissed on grounds of the importance of the woodland with the Planning Inspectorate commenting that the 'The removal of a significant number of the trees of any age or type would erode the contribution the area makes to local landscape character'.
- 4.5. A recent application (17/01226/FUL) to erect a four-bedroom house was refused in January 2018 on grounds of unacceptable harm to the visual amenity of the area through loss of trees and a detrimental effect on the amenities of neighbouring residents.
- 4.6. There is a current application (18/00224/FUL) yet to be determined for erection of a detached four-bedroom dwelling.
- 4.7. Following an enquiry by the landowner to the Forestry Commission regarding a Felling License, the Council decided to review the protected status of the site following Government guidance and recommended best practice. Essentially, that guidance is for Local Authorities to not rely on 'Area' designations as they become problematic to manage in the long-term. Accordingly, TPO 1263 was served as a 'woodland' designation on 01/12/2017. TPO 1263 is in force till 01/06/18, after which it lapses.
- 4.8. In reviewing the Order, existing trees, that is individuals, groups, areas and woodlands are viewed and assessed for their amenity impact. This system is based on factors that assess: -
- Their health & condition
 - Their remaining longevity
 - Their relative public visibility
 - Specialist considerations such as 'veteran' status, historical interest etc.
 - The known (or perceived) 'threat' to their health & condition or existence
 - The impact of the trees on the landscape
 - Special factors such as proximity and orientation to the nearest habitable structure.
- 4.9. These factors follow criteria based on government guidance and 'best-practice' and the assessment system follows policy developed by the Tree Policy Review Group (2007). The assessment gives a value that informs the Tree Service in considering whether or not to make a TPO.
- 4.10. TPO 1263 was designated as 'Woodland' which protects all species of tree whatever their size and age, within the defined boundary.
- 4.11. Once the new TPO is served, affected residents have 28 days in which to make representation to the Council. Some representations are letters of support whilst others request clarification, but more commonly they are objections to the making of the Order. Objections can be made on any grounds; if objections are duly made, the Local Planning Authority cannot confirm the TPO unless those objections have first been considered.
- 4.12. The Order document contains details of how a resident can comment or object to the TPO. In serving the Order, the Council also includes advice and guidance in respect of the objector's right to make an application to manage their tree (even if the TPO has yet to be confirmed) and directs the objector to an application form and how to source

Government advice on TPO procedures.

- 4.13. Any representation (support, objection or comment) is reviewed in respect of Council policies and to address the issues raised either a delegated report is compiled for consideration by the Chief Officer: Planning, Transport and Countryside or brought before the Planning Committee.

5. SUMMARY OF REPRESENTATIONS

- 5.1. One representation was made in the form of an objection, submitted by arboricultural consultancy, Ian Keen Consultants on behalf of their client, Mr & Mrs Simmons of 'Sunrise', Birch Lane.
- 5.2. The issues raised as part of the representations/objections to this TPO or particular tree relate to: -
- The order being inappropriately drafted
 - Not expedient to make the order

6. CONSIDERATION OF ISSUES

- 6.1. In the most recent determined application (17/01226/FUL), the applicant's tree survey had identified a number of individual trees but also a number of groups of trees. The presumption being that the Council would consider the trees as individuals in the context of the design & layout of the proposed development.
- 6.2. However, following Government advice on reviewing its TPO's and taking the appeal decision in respect of 16/00780/FUL into account, the Council's review of the trees on this site concluded that it was of a woodland character and so merited a 'Woodland' designation TPO over the whole of the application site.
- 6.3. The applications site's previous planning history and the enquiry to the Forestry Commission in respect of a Felling License, also supported a review of the existing protection (TPO 606) to ensure that the trees were protected by the correct designation and level of protection appropriate to the character of the site.
- 6.4. The surrounding landscape is characterised by woodland and the Council is being consistent in its application of 'woodland' designated protection of trees as demonstrated by the number of woodland TPOs made on surrounding properties (see TPO Plan in the Appendix)
- 6.5. The Council's response to the objections include: -
- The amenity assessment undertaken on the trees has been developed by the Council and is based on Central Government Guidelines, industry 'best practice' and the Council's own policy.
 - The Council's amenity assessment is not a full & detailed tree-survey; and although now protected, this does not remove any legal responsibility from the tree-owner to ensure their safe condition. It is therefore strongly advised that if the objector/tree-owner considers any trees to be in any way dangerous, hazardous or unsafe, that they seek independent professional advice.
 - The woodland is visible from a public vantage point and is regarded to be an intrinsic component of the general landscape of the area.

7. SUPPORTING PLANNING INFORMATION

- 7.1. 'Saved' policy EN1 of the BFBLP states that planning permission will not be granted for development which would result in the destruction of trees and hedgerows. Trees

and hedgerows are important to the retention of the character and appearance of the landscape or townscape of the area.

- 7.2. Policy EN20 requires the designs of new developments to retain beneficial landscape or ecological features, and where reasonable, enhance these features; and to avoid the loss of important natural features (such as trees, hedges, fences and banks) which it is desirable to maintain.
- 7.3. Policy CS 7 requires design to respect local character and enhance the landscape
- 7.4. Retention & protection of trees is also a key responsibility of Local Authorities under section 197 of the Town & Country Planning Act 1990.

8. CONCLUSION

- 8.1. The Council has followed due legislative process, procedure and policy and has stated the reasons for protecting the trees. The various objections and specific issues raised by correspondents have been addressed within this report.

End of Report

Contact for further information: -

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APPENDIX

Plan showing TPO 1263 and other surrounding TPO's.

