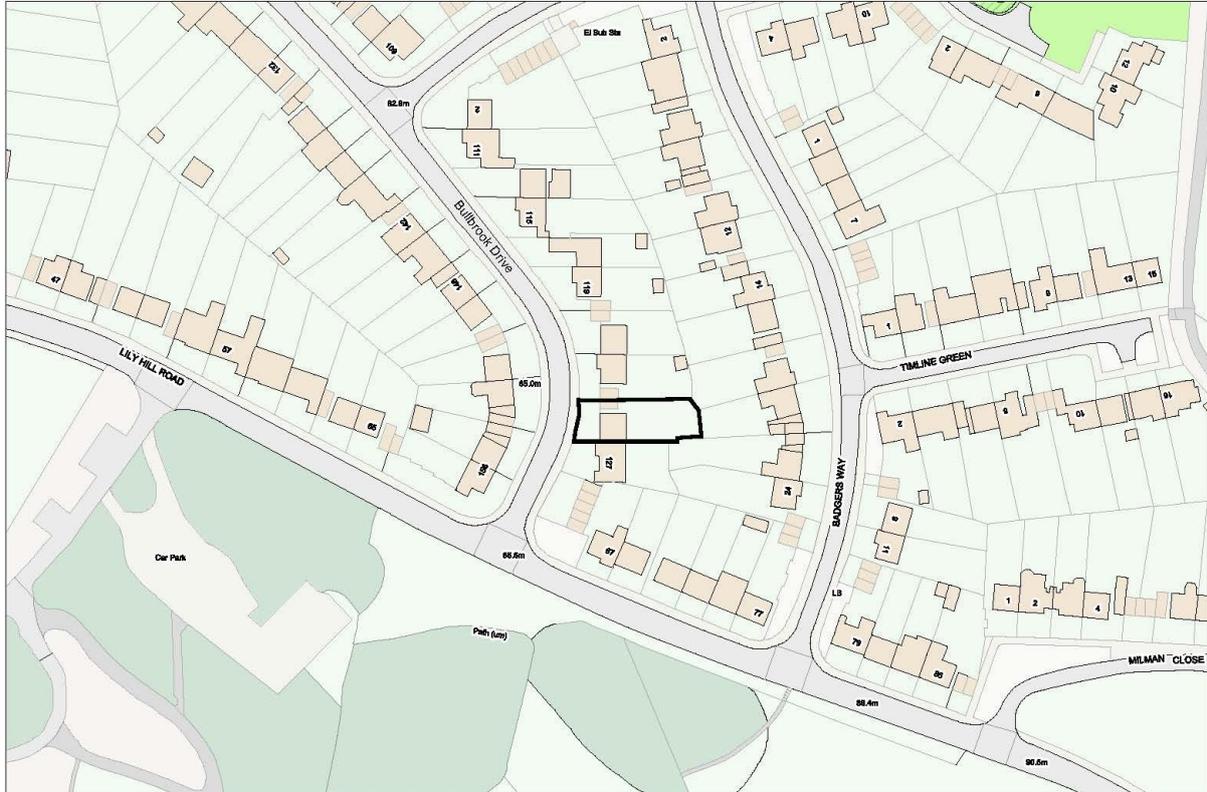


**PLANNING COMMITTEE**  
**19/04/2018**

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**CONFIRMATION OF TREE PRESERVATION ORDER (TPO) 1266**  
**Land at 125 Bullbrook Drive, Bracknell, Berkshire- 2018**

**(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 affect. 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. Following submission of a pre-application enquiry (PRE/17/00163/GEN) the tree was assessed by the Planning Authority and a request to protect the tree was made of the Tree Service; accordingly TPO 1266 was served on 25<sup>th</sup>. January 2018.
- 4.2. The TPO protects a single Oak tree growing in a residential rear garden (growing close to the boundary with 123 Bullbrook Drive.
- 4.3. Existing trees, that is individuals, groups, areas and woodlands are viewed and assessed for their amenity impact to evaluate their suitability for a TPO. 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.

- 4.4. 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.
- 4.5. 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.
- 4.6. 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.
- 4.7. 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. Objections were received jointly from: -
  - 123 Bullbrook Drive
  - 125 Bullbrook Drive
  - 127 Bullbrook Drive.
- 5.2. The issues raised in the objections to this particular tree relate to: -
  - The Oak shedding branches which are a hazard to residents
  - Challenging the amenity value of the tree
  - The maintenance implications caused by falling leaves, fruit, sticky sap/honeydew, blocked gutters etc.
  - Concerns about shading and the subsequent loss of sunlight & ambient light to the properties

## **6. CONSIDERATION OF ISSUES**

- 6.1. The Council's response to the objections also include: -
  - 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 the tree/s to be in any way dangerous, hazardous or unsafe, that they seek independent professional advice.
  - The amenity assessment undertaken on the tree has been developed by the Council and is based on Central Government Guidelines, industry 'best practice' and the Council's own policy.
  - The tree is visible from public vantage points and there are few amenity trees of the same quality and impact in the immediate landscape.
  - Falling debris from the tree (such as leaves, seed & fruit, twigs and small branches etc) is the natural consequence of tree growth. Whilst sympathising with the difficulty encountered in maintaining a property; the sort of debris described is not recognised in English Law as a 'legal nuisance, and the judiciary regard falling leaves; fruit etc. as 'incidental to nature'.

- Although the tree does cast shade by virtue of its size, the tree is located in such a position in relation to the houses and gardens (of nos. 123 & 125) so as not to entirely deny direct sun-light or ambient light to that property. Although the Council assessment does take into account the shade cast by the tree the other amenity factors outweighed the shade potential.

## 7. SUPPORTING PLANNING INFORMATION

7.1. 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 tree. The various objections and specific issues raised by correspondents have been addressed within this report.

End of Report

Contact for further information: -

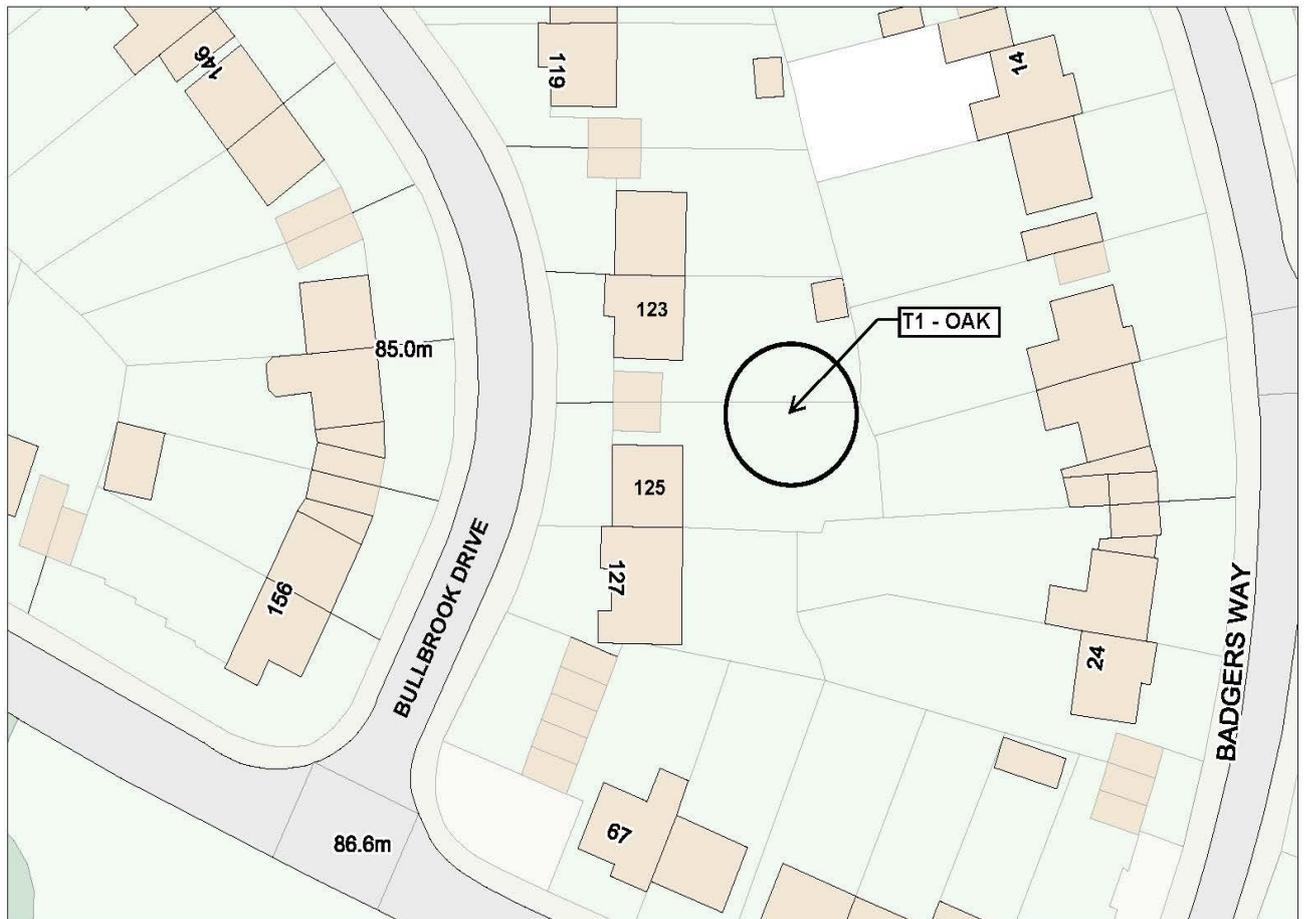
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## Appendix

### TPO Plan



**Photo of T1 – OAK (In Winter) Viewed from Badgers Way**



**Photo of T1 – OAK (In Summer) Front of 123/125 Bullbrook Drive**

