

PLANNING COMMITTEE
21st. June 2018

CONFIRMATION OF TREE PRESERVATION ORDER (TPO) 1271
‘Land at communal green space within Phoenix Rise, Crowthorne – 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 approves the Confirmation of this Tree Preservation Order.

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**

4.1. The development that is Phoenix Rise is constituted of 19 dwellings sandwiched between the roads, School Hill and Chaplains Hill in Crowthorne. In considering the development in 2013, the Planning Authority acknowledged the importance of the sylvan character in the historic landscape. There are woodlands to the East, North and West of this site and residential development to the South.

4.2. Following an enquiry from the management company that maintains the properties in Phoenix Rise, it was made apparent that a particular property intended to exercise its common law right to prune back an Oak tree to the property's boundary. An assessment of this proposal revealed that this would have an adverse effect on a significant amenity tree; accordingly TPO 1271 was served on 21/02/2018.

4.3. The TPO designates the following trees: -

G1 6 Oak trees & 2 Beech trees

Along the road of School Hill

G2	3 Maple trees	The south side of 1 Phoenix Rise
G3	2 Oak trees, 2 Maples & 1 Horse Chestnut	West side of the road of Phoenix Rise
G4	4 Oak trees, 2 Beech trees, 1 Pine tree & 1 Chestnut tree	To the North and West of 9 to 15 Phoenix Rise

- 4.4. 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.
- 4.5. 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.
- 4.6. 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.
- 4.7. 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.
- 4.8. 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. This TPO generated one objection from ‘The Firs’, Chaplains Hill.
- 5.2. The issues raised as part of the objection to the inclusion of an Oak within G4 of this TPO and relate to: -
- Challenging the amenity value of the Oak.
 - Concerns about safety and the risk to persons and property by falling branches
 - The neglected state of the tree and lack of tree-maintenance.

6. CONSIDERATION OF ISSUES

- 6.1. The residents of The Firs have experienced damage to their property (shed, garage and two cars) as a result of falling branches from this particular Oak. Evidence provided by the residents shows dead branches of various sizes that had fallen and the subsequent damage (in one instance a shed was destroyed). It is the view of the Planning Authority that given the trees location and influence over adjoining property, that this tree would benefit from a professional inspection and maintenance pruning.
- 6.2. The same residents have been communicating with the company that manages the grounds of Phoenix Rise, seeking a solution to the problem of the tree. It is not known at time of this report, if there have been discussions and any agreed resolution to the problem. A professional inspection would provide guidance on appropriate maintenance to the tree that should maintain both its visual amenity impact and safe condition. The Planning Authority would not unreasonably withhold a grant of permission to maintain a protected tree in safe condition.
- 6.3. The Oak is one of many trees in the immediate vicinity that is visible from public vantage points and that is a component of the sylvan character of the landscape as well as a significant visual amenity to the residents and the public.
- 6.4. The Council's response to the objections also include: -
 - The amenity assessment undertaken on the tree/s 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 considers the tree/s to be in any way dangerous, hazardous or unsafe, that they seek independent professional advice and/or bring their concerns (in writing) to the tree-owner for consideration.

7. SUPPORTING PLANNING INFORMATION

- 7.1. The development that is Phoenix Rise is within a registered Historic Park and Garden. A key consideration in assessing the original development applications (10/00820/OUT and 13/00294/REM which was for the development of 19 dwellings), was whether the proposed development would result in unacceptable damage to this registered Historic Park and Garden. The numerous mature trees around the edges of the site were considered to form a very important and integral part of the character of this historic parkland and to contribute positively to the character of this site and the surrounding area.
- 7.2. '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.
- 7.3. 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.
- 7.4. Policy CS 7 requires design to respect local character and enhance the landscape

7.5. 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: -

Jan Polnik
Principal Tree Officer 01344 354115
jan.polnik@bracknell-forest.gov.uk

CONFIRMATION OF ORDER

This Order was confirmed by Bracknell Forest Borough Council without modification on: -

Signed on behalf of the Bracknell Forest Council

Signature: -

Name: - Andrew Hunter / Max Baker

Position: - Chief Officer: Planning, Transport & Countryside / Head of Planning
(Authorised by the Council to sign in that behalf)

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by Bracknell Forest Borough Council on: -

Signed on behalf of the Bracknell Forest Council

Signature: -

Name: - Andrew Hunter / Max Baker

Position: - Chief Officer: Planning, Transport & Countryside / Head of Planning
(Authorised by the Council to sign in that behalf)

APPENDIX

Photo 1 – Subject tree to the left of photo



Photo 2 – Damage to shed

