

**PLANNING COMMITTEE**  
**19<sup>th</sup>. July 2018**

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**CONFIRMATION OF TREE PRESERVATION ORDER (TPO) 1277**  
**Land at Iron Duke Close, Copenhagen Walk and Goldsmiths Way; including 27**  
**& 35, Crowthorne - 2018**  
**(Director of Environment, Culture & Communities)**



**1. PURPOSE OF DECISION**

- 1.1 The Council has reviewed & revoked an old TPO whilst at the same time making a new TPO to retain and protect trees which have been assessed to be of amenity value and were judged to be at expedient risk of removal or other adverse effect. A representation has been made to the Council in respect of the new TPO 1277 and the issues raised 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. Section 198 of the Town and Country Planning Act 1990 (as amended) and The Town & Country Planning (Tree Preservation) (England) Regulations 2012 is the statutory framework for making and confirming TPO's.

3.1.2. Further Department for Communities & Local Government (DCLG) provides guidance on TPO's in the Planning Practice Guidance (PPG) titled 'Tree Preservation Orders and trees in conservation areas'. The guidance states that, TPO's should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and it's enjoyment by the public. Before a Local Planning Authority can confirm an Order, they should demonstrate that protection the tree would bring a reasonable degree of public benefit

3.1.3. 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. TPO 1277 protects specific trees within Iron Duke Close, Copenhagen Walk and Goldsmiths Way. Certain parts of these sites were previously protected by an 'Area' TPO (TPO 129) made in 1983 and which covered an area prior to the development of Iron Duke Close, Copenhagen Walk & Goldsmiths Way. Further to development, trees within a small area at the rear of properties in Iron Duke Close were protected in 2015 by TPO 1194.

4.2. In the lead-up to this TPO, planning application 18/00026/TRCA was a notification to remove a Birch in a strip of amenity land adjoining the entrance of Iron Duke Close. This tree was not protected by either TPO's 129 or 1194. The tree however, was within the 'Church Street' Conservation Area (CA). As the tree is within a CA, the Planning Authority can as a matter of procedure, either 'not object' to the proposal or if

(after assessment) it was considered to have amenity value, it could formally protect the trees by making a TPO. An assessment indicated that the Birch (and other trees within the old TPO 129) to be of sufficient amenity impact to warrant protection; subsequently Tree Preservation Order 1277 was made on 19<sup>th</sup>. April 2018.

- 4.3. Simultaneously, the now redundant TPO 129 was formally revoked.
- 4.4. At the same time as notification 18/00026/TRCA, an application (18/00025/TRTPO) was made to prune trees that the applicant presumed to be protected by TPO 129 (but that were actually protected by TPO 1194).
- 4.5. TPO 1277 protects the following: -

T1	Maple	
T2	Whitebeam	
T3	Oak	
T4	Oak	All in front of 16 – 45 Copenhagen Walk; bordering Sandhurst Road
T5	Oak	
T6	Oak	
G1	2 x Birch 2 x Holly	Fronting Sandhurst Road
G2	2 x Pine 1 x Oak 1 x Beech	Rear of 1 – 5 Copenhagen Walk
G3	1 x Poplar 1 x Beech (Multistem) 1 x Prunus (Purple Plum)	Rear of 37 – 40 Copenhagen Walk & front of 35 Goldsmith Way
G4	1 x Oak 1 x Beech	Side of 37 – 40 Copenhagen Walk & 44 Goldsmith Way
G5	1x Oak 1 x Maple	Flank of 19 Goldsmith Way

- 4.6. 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.

- 4.7. These factors follow criteria based on government guidance and ‘best-practice’ and the assessment system gives an indicative value that informs the Tree Service in considering whether or not to make a TPO.
- 4.8. 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 valid objections are duly made, the Local Planning Authority cannot confirm the TPO unless those objections have first been considered.
- 4.9. 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 process and how to source Government advice on TPO procedures.
- 4.10. 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 it is brought before the Planning Committee.

## **5. SUMMARY OF REPRESENTATIONS**

- 5.1. At the same time as notification 18/00026/TRCA, an application (18/00025/TRTPO) was made to prune trees that the applicant presumed to be protected by TPO 129 (but that were actually protected by TPO 1194).
- 5.2. One representation was made by a resident in Iron Duke Close. The content of the representation required a detailed response that was effectively clarification on a number of presumptions and lack misunderstanding of the planning process (see Appendix).
- 5.3. The issues raised as part of the representation to this TPO relate to: -
  - Confusion in the interpretation of Conservation Area maps on the Council website
  - Misunderstanding about the protected status of trees within a Conservation Area
  - The expediency of the Council’s response to a notification to remove a tree within a Conservation Area
  - Clarification if Holly is regarded as a tree
  - Concerns that TPO 1277 will prevent routine maintenance

## **6. CONSIDERATION OF ISSUES**

- 6.1. To aid the Planning Committee in understanding the scope of the issues raised by the representation and to aid its Members in understanding the Council’s explanation on these issues, the Council’s detailed response is included in the Appendix to this report.
- 6.2. The Council’s response to the objections also 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 the trees to be in any way dangerous, hazardous or unsafe, that they seek independent professional advice.

## 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 CS 7 requires design to respect local character and enhance the landscape
- 7.3. 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](mailto:jan.polnik@bracknell-forest.gov.uk)

### CONFIRMATION OF ORDER

This Order was confirmed by Bracknell Forest Borough Council on the

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 the: -

Signed on behalf of the Bracknell Forest Council

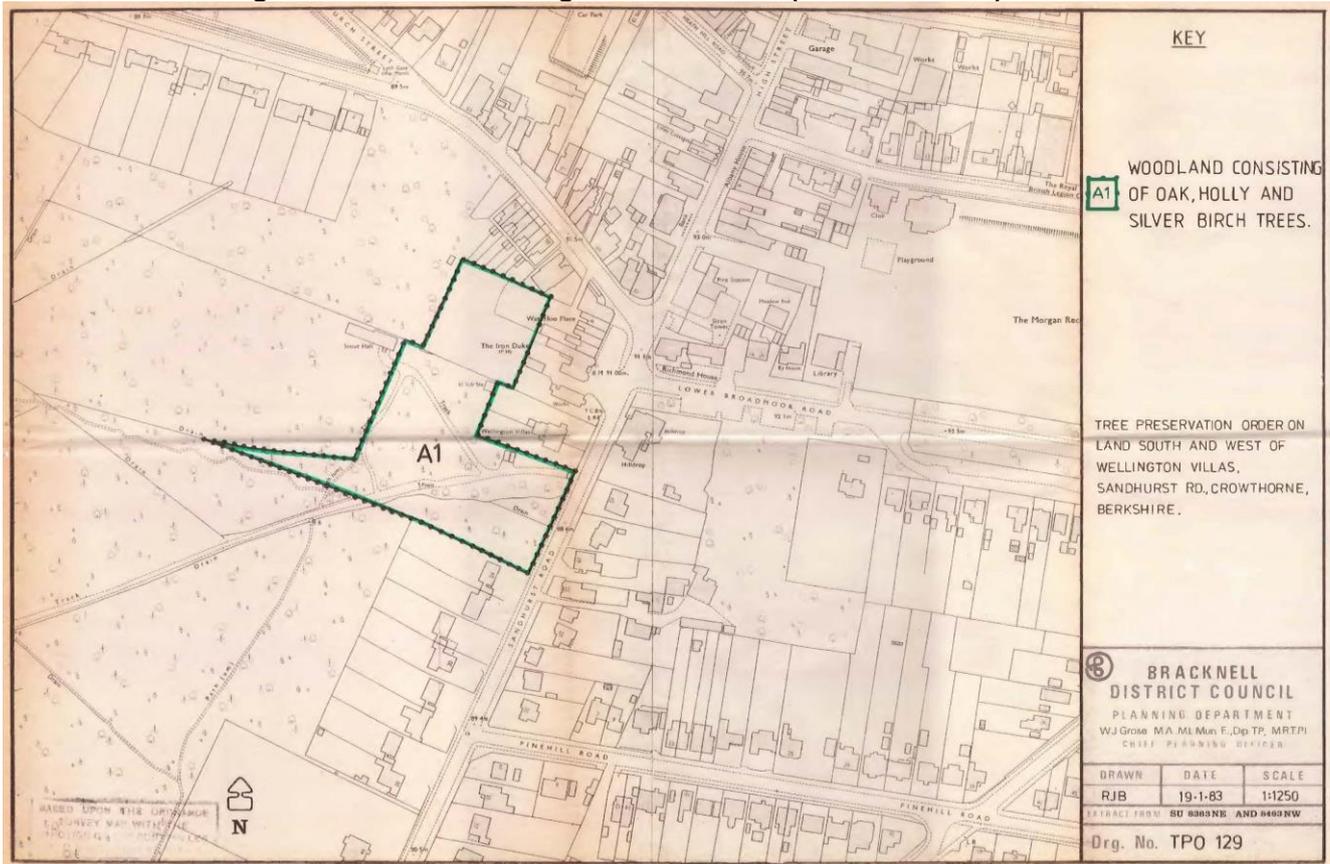
Signature: - .....

Name: - Andrew Hunter / Max Baker

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

# APPENDIX

## 1. Plan showing extent of 'Area' designated TPO 129 (Revoked 2018)



## 2. Plan of TPO1277



### 3. Detailed response to correspondence lodged in respect of TPO 1277

**Tree Enquiry Ref 1208077**

**Email clarification requested by Mr I Machin on 12/04/2018 in respect of TPO 1277 and Crowthorne Conservation Area**

**Text of the enquirer's communication followed by Tree Service response: -**

The address is 8 Iron Duke Close, Crowthorne.  
TPO129 x 2 Trees Pruning and Conservation Area x 1 Silver Birch to Fell.

My confusion lies between Maps of Conservation area boundaries and TPO Tree map boundaries and which is the latest most up to date version that I should be using.

When you look at Crowthorne Conservation Area maps on Bracknell Council website <https://www.bracknell-forest.gov.uk/planning-and-building-control/planning/conservation-areas/crowthorne-conservation-area>

there are approx. 6 different maps going back as far as late 1800's, 1939 and so on, - why list / show these if they have been changed / updated?

**Answer – They are not variations of the current Conservation Area; they show the history behind the area and some of the considerations and deliberations made by the Planning Authority before determining the extent of the Conservation Area.**

A tree I want to cut down it seems is within Conservation Area but not on TPO Map area having spoken to a neighbour.

**Answer – The application 18/00026/TRCA was to remove a Birch within the Conservation Area (CA). At that time the Birch was not protected by Tree Preservation Order (TPO) 129 (since revoked).**

**As the tree was within a CA, the Planning Authority must as a matter of procedure, either 'not object' to your proposal, or if after assessment it was considered to have amenity value, it could formally protect the trees by making a TPO. Accordingly it created and served new Tree Preservation Order 1277 (which now protects the Birch and various other trees as listed in the TPO document).**

I could have cut this tree down back in Feb 2018 as it was never in the Tree TPO area so I never needed to apply to work on it.

**Answer – Although it was previously not protected by TPO 129 (or indeed by 1277), as it is within the CA, so you would still have had to give notification of your intention to remove the Birch and then the Planning Authority would have given it the same consideration mentioned in the paragraph above.**

I still wait for Council to reply to my application to fell this tree - which is now beyond the statutory 6 week expiry date but still await the Council's reply.

**Answer – By now you would have had a determination on your application to remove the Birch (18/00026/TRCA); that response was for the Planning Authority to serve TPO 1277. If you now want to prune or remove the Birch, then a new application is required.**

The Council Website says if I haven't heard from them in this period I can carry out work I applied for but no more. If this is true, as the tree does not have a TPO on it could I legally cut it down tomorrow or am I likely to be fined for doing something illegal?

**Answer – This question has been answered by responses given earlier in this letter. When you made your application to remove the Birch under protection afforded by the CA (18/00026/TRCA) the Planning Authority then had six weeks in**

**which to respond; that response would either be to ‘not object’ to your proposal, or formally protect the tree by making a TPO. I accept that the new TPO was served a couple of weeks after the expiry of the CA ‘6 week’ period, but that does not invalidate the TPO.**

It is all very unclear especially when website shows out of date maps to those that the Council may be referring to.

**Answer – I accept that the layers of legislation and regulation make it complex; but the maps that you refer to are effectively ‘working plans’ that show the considerations made by the Planning Authority before it drew a (blue) line around the area that is now Crowthorne Conservation Area.**

Can you also advise if a Holly is classified as a shrub (as it is in a number of gardening books) or a tree, as we fear the Council may classify it?

**Answer – Holly is classified as a tree.**

We have previously been told by the Council to maintain them but now fear they will put a TPO on them along with the Silver Birch I wish to fell.

**Answer – The new TPO 1277 protects a number of trees; in Group 1 (G1) it identifies two Holly trees in the positions shown on the plan within to the TPO document. Before any work is carried-out to any tree identified in the TPO, an application must be made to the Council to obtain a grant of consent.**

**Pruning of protected trees, especially to abate a legal nuisance (e.g. low branches causing obstruction; blocking road signs; touching TV aerials etc.) is regarded by the Council as reasonable maintenance and any such application would not be unreasonably refused.**

Your thoughts /comments re the official status of my applications and other requests (latest maps to refer to and Holly) is greatly appreciated.

**Answer – Application 18/00026/TRCA (removal of the Birch) resulted in the making of a new TPO 1277 (a new application would now be required if you wanted to prune or remove the Birch).**

**Application 18/00025/TRTPO (to prune a Yew & Cherry, protected by TPO 1194) has also now been determined.**

**TPO 129 has now been revoked and replaced by new TPO 1277.**

**I trust that this response answers the questions above and inform you about legislative process.**

**Mr Jan Polnik  
Principal Tree Officer  
[Jan.polnik@bracknell-forest.gov.uk](mailto:Jan.polnik@bracknell-forest.gov.uk)**