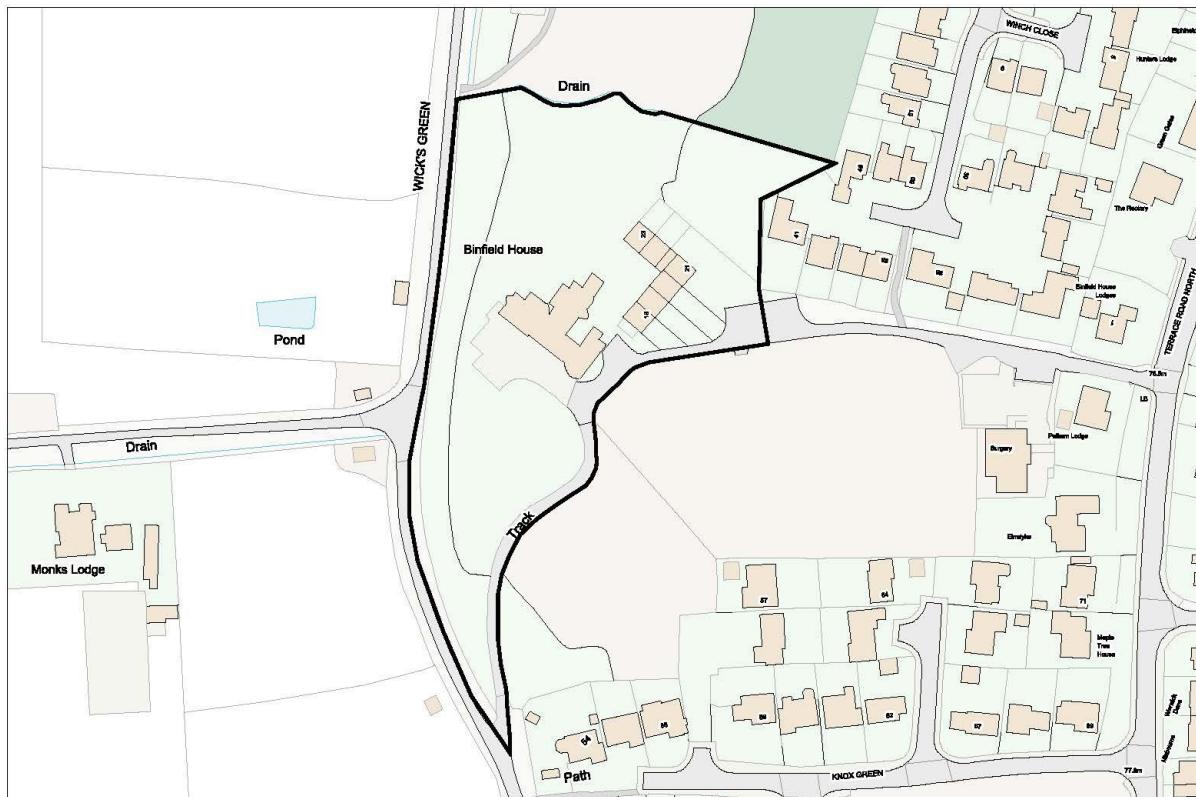


PLANNING COMMITTEE
16th. August 2018

CONFIRMATION OF TREE PRESERVATION ORDER (TPO) 1280
'LAND AT BINFIELD HOUSE, ADJACENT TO WICKS GREEN, BINFIELD – 2018'
(Director of Environment, Culture & Communities)



1. PURPOSE OF DECISION

- 1.1 The Council has decided to make a Tree Preservation Order (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. Representations have been made to the Council against the making of this TPO 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. 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 TPOs 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 its 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. The site on which Binfield House stands is flat and mostly laid to grass, with various trees dotted through-out. There is an extensive and mature hedgerow with mature trees along its West boundary (bordering Wicks Green road). To the East is a new housing development (currently in-build) and to the North is an extent of open space and fields. A driveway from the South (Wicks Green road) serves the large building that is Binfield House which is currently managed by Silva Homes.
- 4.2. At the request of Councillor Peacey an assessment of the trees was requested, further to information that the site was being considered for disposal. Following concerns that trees were under threat of removal (a small number within the mature hedgerow closest to the South-west corner of the building were removed and which opened up a direct view of the building from Wicks Green) TPO 1280 was served on 13th June 2018.

4.3. Trees protected by this TPO are: -

Trees specified individually (encircled in solid black on the map)

| Reference on map | Description | Situation |
|------------------|-----------------|---|
| T1 | Yew | Near entrance off Wicks Green |
| T2 | Oak | Land adjoining & East of driveway off Wicks Green |
| T3 | Thuja | Centre of front lawn |
| T4 | Lombardy Poplar | Land adjoining & East of driveway |
| T5 | Zelkova | Front lawn (Comm. tree – Bahai Community 1992) |
| T6 | Oak | Front lawn (Comm. tree – D & D Hoskins; 1998) |
| T7 | Oak | North-east corner of site |
| T8 | Douglas Fir | North-east corner of site |
| T9 | Ash | North-east corner of site |
| T10 | Douglas Fir | North-east corner of site |
| T11 | Douglas Fir | North-west corner of site |
| T12 | Holly | North-west corner of site |
| T13 | Eucalyptus | North-west of site |
| T14 | Oak | North-west of site |
| T15 | Cedar | Rear of Binfield House |
| T16 | Purple Beech | North-west of site |
| T17 | Holly | West of site side of site; adj. Wicks Green |
| T18 | Hazel | West of site side of site; adj. Wicks Green |
| T19 | Birch | West of site side of site; adj. Wicks Green |
| T20 | Oak | West of site side of site; adj. Wicks Green |
| T21 | Oak | West of site side of site; adj. Wicks Green |
| T22 | Cypress | Centre-south of front lawn |

Groups of trees (within a broken black line on the map)

| | | |
|----|--------------------|---|
| G1 | Oak x 5 | West of site side of site; adj. Wicks Green |
| G2 | Oak x 1; Beech x 1 | West of site side of site; adj. Wicks Green |
| G3 | Cypress x 5 | West of site side of site; adj. Wicks Green |
| G4 | Oak x 1; Ash x 5 | North-west side of site; adj. Wicks Green |
| G5 | Fruit trees x 30 | North-west side of site in community orchard area |

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 gives an indicative 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 valid 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 process 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 it is brought before the Planning Committee.

5. SUMMARY OF REPRESENTATIONS

- 5.1. One representation in the form of an objection was received from Silva Homes (previously Bracknell Forest Homes) specifically and only in respect of element G5, consisting of 30 fruit trees located in the 'North-west part of the site in community orchard area'.
- 5.2. The issues raised as part of the objection to G5 of this TPO relate to:
 - BFH (Silva Homes) don't believe the amenity value of the trees is of a level/status which warrants TPO status.
 - We understand that BFCs (Bracknell Forest Council) consent is not needed before pruning any tree cultivated for the production of fruit, as long as the work is carried out in accordance with good horticultural practice. However, we have concerns that our actions with regards to maintaining the trees could be deemed to be in contravention of the fruit trees TPO. In this situation even if proposed work was exempt from the need to obtain permission from BFC, we would still be in a position where we would feel the need to advise BFC of our intentions prior to undertaking any pruning. Fruit tree maintenance can be intensive with pruning typically undertaken on an annual basis. Therefore if the TPO is confirmed on G5 then BFH could be left in a situation where we would either be making an application for tree works or advising BFC of our intentions every year. This would be onerous time consuming task.
 - Confirming the TPO on G5 would mean that we would be in a situation where any lost tree would have to be replaced and the trees would have to be maintained to a satisfactory level to ensure their long term health and retention. This places additional responsibility and financial costs on BFH something which we feel is unwarranted for the G5 trees.

6. CONSIDERATION OF ISSUES

- 6.1. At this stage there is no confirmation that the site is being disposed of, or whether the current owners intend to re-develop the site.
- 6.2. Based on the recent removal of trees along the Wicks Green boundary, there are indications that disposal and/or re-development of the site is likely; as a consequence the expediency of this TPO is not in question and the Council is justified in protecting the trees as they are perceived to be under threat.
- 6.3. The hedgerow along Wicks Green and feature trees throughout the site present a mature landscape and the retention of all those features will retain and protect the screening and character of the site.
- 6.4. Although the objector argues that G5 is not of sufficient amenity value, the probable disposal of the site opens up the possibility of re-development or even just the removal of this feature.
- 6.5. The value of orchards is widely recognised as demonstrated in the UK Bio-Diversity Action Plan and by various environmental organisations (e.g. the Orchard Network). Since 1999 the Town & Country Planning Act has enabled local authorities to protect fruit trees that are not in commercial production. The orchard that is G5 in TPO 1280 is a landscape and bio-diversity feature that will only improve and increase in value over the years.
- 6.6. The Town and Country Planning (Tree Preservation)(England) Regulations 2012 govern the making of TPO's and the processing of any application to manage protected trees. The Regulations identify certain exceptions to a tree-owner having to make an application to the Council for a grant of consent.
- 6.7. The Planning authority's consent is not required for carrying out work on a tree subject to an Order that is cultivated for the production of fruit in the course of a business or trade, if the work is in the interests of that business or trade. As this is not currently the case in respect of Binfield House (nor is it likely), the following exception provides.
- 6.8. The Planning authority's consent is otherwise generally required for carrying out prohibited activities to a fruit tree protected by an Order that is not cultivated on a commercial basis. However, the authority's consent is not needed before pruning any tree cultivated for the production of fruit, as long as the work is carried out in accordance with good horticultural practice.
- 6.9. The concern of the objector that a commitment to regular pruning of fruit trees would be a bureaucratic burden can be accommodated by the Planning authority issuing (on receipt of an application) a grant of permission that has a long-term expiry (for example 10 years) that would preclude the need for annual notification of pruning.
- 6.10. As these fruit trees are designated as a 'Group' with an identified number of trees that form the group, any tree that dies would have to be replaced to maintain the integrity of the orchard. However, the owners can at any time submit an application to reduce the number of trees in the group to promote future development of individual trees and the entire orchard as an entity; this would typically be supported by an orchard management plan outlining the objectives and operations required.

6.11. The Council's response to the objection 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 any trees to be in any way dangerous, hazardous or unsafe, that they obtain professional advice.

7. SUPPORTING PLANNING INFORMATION

- 7.1. 'Saved' policy EN1 of the BFBPLP 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: -

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 (subject to the modifications as indicated by (red) amended text) on the **XX day of Month Year**

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: -

XX day of Month Year

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)

VARIATION OF ORDER

This Order was varied by Bracknell Forest Borough Council on the **XX day of Month Year** by a variation order under reference number (*insert reference number to the variation order*) a copy of which is attached.

Signed on behalf of Bracknell Forest Borough 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)

REVOCATION OF ORDER

This Order was revoked by Bracknell Forest Borough Council on the **XX day of Month Year**.

Signed on behalf of Bracknell Forest Borough 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

Plan of protected trees in TPO 1280

