

CONFIRMATION OF TREE PRESERVATION ORDER (TPO)
LAND AT 5A FARINGDON DRIVE, BRACKNELL, RG12 9NT - 2014

(Director of Environment, Culture & Communities)

1. PURPOSE OF DECISION

- 1.1 Under section 198 [201] and 203 of the Town and Country Planning Act 1990, the Council has made a Tree Preservation Order (TPO) to retain and protect trees that are assessed to be of public amenity value and were judged to be at expedient risk of removal or other adverse affect. Objections have been raised and they are the subject of this Committee 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 has been provided in a Communities and Local Government (CLG) booklet titled "Tree Preservation Orders: A Guide to the Law and Practice". 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 it's enjoyment by the public. Local Planning Authorities 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 tree can be seen by the public
- Individual impact -The Local Planning Authority should assess a tree's particular importance by reference to it's size and form, it's future potential as an amenity taking into account any special factors
- Wider impact - the significance of the tree in it's local surrounding should be assessed

3.2. Borough Treasurer

3.2.1. The Borough Treasurer has noted the report. There are no significant financial implications arising from the recommendation in this report.

3.3. Equalities Impact Assessment

3.3.1. Not applicable

3.4. Strategic Risk Management Issues

3.4.1. Not applicable

3.5. Other Officers

3.5.1. Head of Planning Development Management has noted the report.

4. BACKGROUND

- 4.1. Existing trees, that is individuals, groups, areas and woodlands were viewed and assessed for their amenity impact using a system to evaluate the suitability of trees 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.
- 4.2. 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.
- 4.3. 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.

5. DETAILS OF RESIDENTS' COMMENTS

5.1. The Order protects: -

T1 - Individual Cypress;

G1 - One Pine and one Oak;

G2 - Three Pine;

G3 - Five Pine;

G4 - Six Pine and three Oak;

G5 - Two Cypress.

5.2. The Council has received one letter of support for the TPO from 80 Harmanwater Road; citing the benefit of their screening and intrinsic amenity.

5.3. The Council also received one objection from one of the co-owners of the property (currently residing in Harmanwater Road).

- 5.4. The issues raised as part of the objection to this particular tree relate to: -
- Challenging the amenity value of the trees; in that they do not meet the criteria as a visual amenity and are only visible from limited vantage points.
 - That the TPO discriminates against the property owner as it only protects trees on that land and not of adjoining land.
 - That the Council should have considered the need for tree-protection in the time that it owned the site and during the planning process, on previous applications to develop.
 - The past lack of tree-maintenance has rendered the trees of poor quality and that they require proper arboricultural care.
 - That the required arboricultural care would be impeded by the continued presence of the TPO.
 - That the height of the trees renders them a hazard to the property and lives of adjoining neighbours.

6. CONSIDERATION OF ISSUES

- 6.1. The site and its trees were brought to the attention of the Tree Service as a result of a planning application (13/00298/FUL) and enquiries from the public. The trees were assessed in accordance with legislation and guidance as described in section 4.1 & 4.2 of this report. In doing so was able to view the site from various perspectives and recorded its findings from ten public vantage points (displayed on the presentation accompanying this report).
- 6.2. The trees are visible from a number of public vantage points and along with other trees in surrounding properties provide for maturity and quality of landscape within the immediate surroundings. A number of surrounding properties and an extent of open space is managed by Bracknell Forest Homes and along with the protected trees provides contiguous tree cover and visual amenity which is consistent with the character of the area.
- 6.3. In 2012 the site was sold by the Council; prior to that the site was under Council management, including the trees. In accordance with the Council's tree policy, there is no requirement for the Council to protect trees under its direct management. In 2013 a planning application was determined that involved modest changes to the existing building. As part of the planning process the Development Management team would have considered if those proposals put the trees at risk and to consider making a TPO. At that time the Planning Authority took the view that was not the case.
- 6.4. The protected trees were subject to the Council's amenity assessment and not a full & detailed tree-survey; and although they are now protected, this does not remove any legal responsibility that the tree-owner has in ensuring they are in safe condition.
- 6.5. The tree owner has the right to make an application to fell or prune the protected trees as part of their management & maintenance. In the event that the Council should refuse a grant of permission, the owner has a right of appeal to the Secretary of State.
- 6.6. The height alone does not make a tree dangerous in itself; but tree-owners should have their trees inspected by appropriate professionals as part of a management & maintenance regime to ensure they have done what is possible to ensure they are in good health & condition..

7. CONCLUSION

The Council has followed due legislative process, procedure and policy. This report explains its position in respect of the reasons for the TPO and also addresses the specific issues raised.

End of Report

Contact for further information: -

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APPENDIX

- Letter of objection;
- Letter in support of the TPO;
- Copy of TPO and site plan