

PLANNING COMMITTEE

26th. February 2015

CONFIRMATION OF TREE PRESERVATION ORDER (TPO 1180)

'Land at 1 Arden Close, Bracknell – 2015'

(Director of Environment, Culture & Communities)

1. PURPOSE OF DECISION

- 1.1 Under section 198 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 amenity value. 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 its 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 its size and form, its future potential as an amenity taking into account any special factors
- Wider impact - the significance of the tree in its 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.

4.4. This TPO replaces TPO 1170 which was served in July 2014 but lapsed before it could be presented to the Planning Committee for consideration. The Town & Country Planning Act regulations now require any replacement TPO to have a new number in order to retain protection of the trees and until the Committee can consider it for confirmation.

4.5. As per Regulations a copy of this TPO was duly served on all affected parties and any immediate neighbour to 1 Arden Close. The grass verge alongside the garden of 1 Arden Close is not Highway but is a strip of land left as a remnant of the original development of Arden Close. In this case a Land Registry search revealed an owner in Woking but when the Order was sent it was returned as undeliverable; subsequent investigations revealed that the building contractor is no longer trading and has ceased to exist.

5. **DETAILS OF RESIDENTS' COMMENTS**

5.1. Objections

Mrs S Runham, 1 Arden Close, Bracknell
Mr S Runham, 56 Knox Green, Bracknell
Mr B Runham, 15 Nash Park, Bracknell

5.2. Support

D J Brown, 2 Arden Close, Bracknell
A & C Bird, 12 Arden Close, Bracknell
K Versluys, 7 Arden Close, Bracknell
P Gates, 4 Arden Close, Bracknell
A Lovett, 6 Arden Close, Bracknell
C Candappa, 3 Arden Close, Bracknell
A Turner, 8 Arden Close, Bracknell

5.3. The protected trees consist of: -

T1 – Cherry (in grass verge adjoining 1 Arden Close)
T2 – Pine (in grass verge adjoining 1 Arden Close)
T3 – Larch (in grass verge adjoining 1 Arden Close)
G1 – a group of two Pine & three Larch (in the rear garden of 1 Arden Close)

5.4. The issues raised as part of the objection to this particular tree relate to: -

- It is not expedient in the interests of amenity to make this TPO
- The trees are not under threat
- The trees offer no screening to houses overlooking 1 Arden Close or offer any screening of 1A Arden Close (from 1 Arden Close)
- The Group of trees are not of good quality, offer no amenity or value to the area as well as drop branches over the Highway footpath and the Larch in particular are dangerous because they lean and are therefore pre-disposed to collapse in adverse weather.
- The maintenance implications caused by falling leaves & needles and fruit
- The trees (within G1) present shade to adjoining properties
- Concerns about the potential for the tree to cause subsidence damage to house foundations.

5.5. The comments (not exhaustive) from supporters of the TPO include: -

- The TPO will maintain the current visual amenity in Arden Close (and help keep the 'Forest' in Bracknell Forest)
- The protected trees are essential to maintain the character of the road; being in a prominent position at the entrance to the road
- Residents chose to live in Arden Close because of the sylvan appearance and the trees should be protected for future generations
- The use of a TPO is appropriate in maintaining the visual amenity and character of the area.

6. COUNCIL RESPONSE

6.1. The Tree Service provides the following responses to the principal objections: -

- The amenity assessment that the trees had undergone has been developed and based on Central Government Guidelines, industry 'best practice' and Council policy.
- The Planning Authority undertook the assessment of the trees and landscape and consequently recommended this TPO to maintain the visual amenity that the trees afford to the area; it is not necessarily the case that Planning Authorities only make TPO's if trees are under imminent threat.
- The trees are visible from public vantage points along Arden Close and Lily Hill Road and are similar to other trees of the same quality and impact in the immediate landscape.
- The protected trees were subject to the Council's amenity assessment and not a full & detailed tree-survey; however the assessment takes into account any

evidence that they might be dangerous, hazardous or unsafe before the Council serves a TPO.

- Although the trees are now protected, this does not remove any legal responsibility from the tree-owner in ensuring they are in safe condition. If the objector/tree-owner considers any of the trees to be in any way dangerous, hazardous or unsafe, then they should seek independent professional advice. Regular inspection and appropriate maintenance is a matter of good practice and any such application is unlikely to be refused by the Council.
- Falling debris from the tree (such as leaves, seed & fruit and twigs described by the objectors) is a consequence of natural tree growth. That sort of debris is not recognised in English Law as a 'legal nuisance, and the judiciary regard falling leaves; fruit etc. as 'incidental to nature'.
- The matter of shade cast by trees is not a material consideration in either making or confirming a TPO.
- In respect of potential damage to property by tree-roots, no evidence was presented in respect of damage to any adjoining properties (by either objectors or any affected householder) and there is no prescriptive model that can be applied to demonstrate that any particular tree will cause subsidence damage. Any claim for damages as a result of subsidence caused by the action of tree roots is a matter of fact and investigation by the affected party.

6.2. When served a TPO, the recipients of the Order are provided with government advice and guidance in respect of the resident's right to make an application to fell/prune the tree as well as the right of appeal if the Council were to refuse such an application and where to source advice on TPO procedures and how to access Council 'Tree-work Application Forms' for their use.

7. SUPPORTING PLANNING INFORMATION

7.1. In July 2014, the Planning Authority undertook the assessment of the trees and landscape and consequently recommended this TPO

8. CONCLUSION

8.1. The Council has followed due legislative process, procedure and policy. It has explained its position in respect of the reasons for the TPO and provided a response to the objections raised by correspondents. The objections maintained are on the basis of: -

- Questionable amenity value of the trees
- The potential of hazard and nuisance presented by the trees

End of Report

Contact for further information: -

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

APPENDIX

- The letters of objection to the TPO
- The letters in support of the TPO