

TO: PLANNING COMMITTEE
23 April 2015

CONFIRMATION OF TREE PRESERVATION ORDER (TPO) 1176
LAND AT 53, 57, 59, 61 & 65 OXFORD ROAD, SANDHURST - 2014
(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 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.
- 4.4. The TPO consists of five individual Oaks within the front gardens of 53, 57, 59, 61 and 65 Oxford Road. The original TPO (1156) was made subsequent to a request to remove the trees within 57 & 59 Oxford Road. That TPO lapsed before it could be considered by Committee and so TPO 1176 was served.

5. **RESIDENTS' OBJECTIONS**

- 5.1. No letters of support were received. Two objections were received from 57 and 59 Oxford Road. One objector is elderly, disabled and lives alone.
- 5.2. The issues raised in objecting to this TPO relate to: -
- Concerns about safety and the risk to persons and property by falling branches (particularly in adverse weather)
 - Shading and the subsequent loss of sunlight & ambient light to the rooms within the houses.
 - The maintenance implications caused by falling leaves, blocked gutters etc.
 - Concerns about the potential for the tree to cause subsidence damage to house foundations.

6. **TREE SERVICE PROCEDURE**

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

- The amenity assessment that the trees have undergone has been developed and based on Central Government Guidelines, industry 'best practice' and Council policy.
- 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 and no such evidence was found. Nonetheless, the Council recommends that if the objector/tree-owner considers a tree to be in any way dangerous, hazardous or unsafe, that they seek independent professional advice.
- The matter of shade cast by trees is not a material consideration in either making or confirming a TPO. An application to carry-out appropriate pruning maintenance would not be unreasonably refused by the Council and may lead to shade being alleviated.
- Falling debris from the tree (such as leaves, seed & fruit, twigs and small branches etc) is the natural consequence of tree growth. Whilst sympathising with the difficulty encountered in maintaining a property; the sort of debris described is not recognised in English Law as a 'legal nuisance, and the judiciary regard falling leaves; fruit etc. as 'incidental to nature'.
- In respect of potential damage to property by tree-roots, no evidence was presented in respect of damage to any adjoining properties and there is no prescriptive model that can be applied to demonstrate that any particular tree will actually cause damage. Any claim for damages as a result of tree-roots or subsidence is a matter of fact and investigation by the affected party. Any subsequent application to prune or remove a protected tree for this reason would have to be supported by the appropriate evidential report.

6.2. The trees are visually prominent and contribute to the landscape character of Oxford Road and the surrounding estate which was previously managed by Bracknell Forest Homes. Due to past pruning works undertaken to some of the trees (removing low branches raising the lower crown to allow light underneath) they are considered to be sustainable. The remaining trees in this group could also be pruned in a similar fashion to address resident concerns, subsequently, limited pruning works may be required in the future to maintain the status quo of the pruned trees, but the amount of pruning required would be considered reasonable management.

7. SUPPORTING PLANNING INFORMATION

7.1. Planning & Transport supports the 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: -

- A perceived hazard to public & property posed by the trees
- Assertions that the resident's quality of life is adversely affected by virtue of the presence, size and characteristics of the tree.

Contact for further information: -

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