

PLANNING COMMITTEE
12th. November 2015

CONFIRMATION OF TREE PRESERVATION ORDER (TPO 1192)
‘LAND AT THE ROYAL HUNT PUBLIC HOUSE, NEW ROAD, ASCOT – 2015’.

(Director of Environment, Culture & Communities)

1. PURPOSE OF DECISION

- 1.1 Under section 198 of the Town and Country Planning Act 1990 and section 200 of Town & Country Planning (Tree Preservation) (England) Regulations 2012 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. Following submission of Planning Application 15/00349/FUL to extend the existing property, construct additional parking and create a new access, which requires the removal of trees considered to be important to the landscape character and appearance of the area, Tree Preservation Order 1192 was served on 18 June 2015 to protect the most important trees within the site.
- 4.2. Two notable existing individual trees, namely a semi mature Scots Pine (TPO plan ref T1) and semi mature Sycamore (TPO plan ref T2), proposed for removal, 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.
- 4.3. 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.
- 4.4. Once the new TPO is served, affected residents/ land owners have 28 days in which to make representation to the Council. 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 OBJECTOR'S COMMENTS**

5.1 Following service of the Order, the Council has received one letter of objection from Eco Urban Ltd (Arboricultural Consultant) on behalf of PLC Architects (representatives of the site owners), dated 9 July 2015, on the following grounds. The issues raised relate primarily to the public amenity value of the trees and include the following: -

- T1 Scots Pine is relatively small in size. It is set back into the site from the New Road pavement by approximately 30m. The tree does not appear to be visible from the highway, apart from when you are stand directly in front of the access into the site. The tree is barely visible from a single vantage point in King Edwards Road, being positioned between a house and an existing offsite tree. In addition, the tree appears to be only partially visible from the residential scheme to the north-west of the site. As such it is considered that the tree has limited public amenity value.
- T2 Sycamore - is also quite small in size and appears to be a self-sown specimen. It is visible in King Edwards Road, but only in the vicinity of the nearby road Junction. This tree cannot be seen from any other locations in the public

realm. Whilst the tree is visible in King Edwards Road when you stand directly in front of it, for the most part it is obscured/buffered in terms of longer views in the road by the position of the large Birch tree to its south and another poor quality sycamore to the north of its position

- As such both trees are considered to have limited public amenity value.
- Trees should only be considered for protection if their loss would have a significant impact on the local landscape and its enjoyment by members of the public. This is because the imposition of a TPO places significant restrictions on a landowner's right to manage land and property without interference by third parties. It is therefore felt that the amenity afforded by any protected tree has to be so great that this outweighs the land management restrictions suffered by the tree owner. In this instance, it is considered that neither of the trees is sufficiently valuable enough to be included in a TPO and indeed if they were to be removed, their size/positioning suggests that their loss would have limited landscape or amenity implications.
- The TPO appears to have been served in response to the recent planning application on the site (Reference 15/00349/FUL) for a side and rear extension to the existing property. The protection of the two trees and prohibition on their removal to facilitate the development is likely to inhibit the scheme from going ahead in its current form. In the objector's experience, the placing of TPOs on trees that do not warrant protection in order to resist planning applications only leads to resentment and invariably increases the propensity for pre-emptive tree felling on future sites.

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 (15/00349/FUL). The trees were assessed in accordance with legislation and guidance as described in section 4.1 & 4.2 of this report. In doing so it was possible to view and assess the trees in detail from various perspectives. The results of this assessment confirmed that the trees merited protection.
- 6.2. Based on the objector's own submission's, which include photos of the trees together with the Tree Service's own assessment, both trees are clearly visible from several public vantage points along King Edwards Road and also from New Road. As such both trees contribute to the visual amenity of the area and satisfy key criteria in considering the protection of these trees.
- 6.3. Both trees are currently semi mature specimens at approximately 11 metres in height. They are in general good health & condition and considered to be sustainable in their present growing environments. On this basis, both specimens are considered to make a significant and valuable contribution to the present landscape character and appearance of the area.
- 6.4. This contribution is likely to be further enhanced in the long term as the trees continue to mature. The protection of such specimens is an integral and fundamental objective of the Tree Preservation Order process, in the interests of helping to safeguard both the present and future amenity of the area.
- 6.5. The objection to the inclusion of T2, on the basis that its amenity value is compromised due to the presence of an adjacent tree to the North, is undermined by the applicant's own acknowledgment that this particular tree is of poor quality. Therefore the visual amenity of T2, will only be enhanced should this poor quality tree continue to decline or be removed. Another tree referred to in the objection, a Silver Birch located in the

front garden of the property to the East, has no significant impact in terms of obscuring the contribution and prominence of T2 in the street scene.

- 6.6. Under the above circumstances objections on the grounds that the trees have limited amenity value are not considered to be supported by any compelling evidence.
- 6.7. Protection of important trees in relation to the development process is a standard and a responsibility of Local Authorities under section 197 of the Town & Country Planning Act 1990. The protection of these trees, given current development pressures, is also supported by the following government best practice guidance.

Extract Tree Preservation Orders and trees in conservation areas - Planning Practice Guidance_ID 36-010-20140306

'It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.'

- 6.8. The proposed removal of these trees as part of the current planning application, highlights the existing development pressures and endorses the importance of their protection to ensure they are carefully considered as a part of the planning application process. It is also considered important to help ensure longer term protection in the event that any development proposals on this property are considered unsuitable.
- 6.9. It is important to highlight that under the legislation protecting these specimens, the tree owner has the right to make an application to fell or prune protected trees as part of their management & maintenance. Furthermore in the event that the Council were to refuse to grant consent to carry-out any works that might be applied for, the owner has a right of appeal to the Secretary of State. Therefore setting aside the owner's development aspirations for the site (which are being considered as part of 15/00349/FUL) and in the absence of any planning consent, the protection of these trees is not considered to place unreasonable or onerous restrictions in managing these trees in accordance with good arboricultural practice.

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

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