

**PLANNING COMMITTEE**  
**21<sup>st</sup>. January 2016**

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**CONFIRMATION OF TREE PRESERVATION ORDER (TPO 1200)**  
**‘LAND FRONTING LONDON ROAD AND ADJOINING ALLSMOOR LANE – 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 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/s 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 trees in the 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 has noted the report.

## 4. **BACKGROUND**

- 4.1. In April 2007, immediately prior to submitting a planning application, the owners of this site felled all the unprotected trees. A group of trees along the eastern boundary of the site (bordering Allsmoor Lane) were left untouched as they are protected by TPO 133. However the Council alerted the Forestry Commission which investigated the removal of volumes of timber for which a grant of a Felling License would have been required under the Forestry Act 1967.
- 4.2. Subsequently the Forestry Commission imposed a Re-stocking Notice in December 2007 requiring the planting of a specific number of trees to aid the re-colonisation of the site back to its woodland character. This Notice is in force until 2020 and the site has been inspected by the Forestry Commission which is satisfied the site is now an emerging woodland, albeit now more reliant on natural re-generation.
- 4.3. Further to development applications PRE/15/00015 & 15/00294/FUL which related to a proposal for 10 detached houses; the view of the Tree Service and Development Management concluded that the development proposal was incompatible with planning policy, that a number of trees presented considerable constraints and that the re-stocked and emerging woodland was under threat. Accordingly, in April 2015 the Council made TPO 1186 which in detail protected various individuals, groups and woodland on this site.
- 4.4. 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.
- 4.5. 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.
- 4.6. 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 objections are duly made, the Local Planning Authority cannot confirm the TPO unless those objections have first been considered.
- 4.7. TPO 1186 lapsed in October 2015 and was replaced by TPO 1200 (which expires in April 2016).

- 4.8. TPO 1200 is formed of: -
- Four individual Oak;
  - Two Groups (incorporating 25 Oak, 2 Beech, 2 Sycamore and 2 Holly);
  - Two Woodland areas which cover the majority of the site.

## **5. DETAILS OF RESIDENTS' OBJECTIONS**

5.1. The Council received seven expressions of support from residents of Old Tollgate Close which adjoins the site of the TPO and one objection from an agent on behalf of the developer.

- Expressions of support included the retention and protection of existing and emerging trees & woodland;
- Protecting landscape features that enhance public visual amenity and reinforce the 'green corridor' effect along London Road;
- Protection of the environment and wildlife habitats;
- The TPO will protect the Forestry Commission 'Re-Stocking Notice intended to establish woodland.

5.2. The issues raised in the objection relate to: -

- The use of 'blanket' woodland designation without surveying the actual extent of the woodlands;
- The Council's system and approach to identifying trees for protection which has included 'small, in a poor condition or have significant defects';
- Although a number of trees in the Order are not of sufficient condition and/or amenity value to warrant inclusion in the TPO; there are other trees that the objector considers do warrant a TPO;
- The land owner would enter into discussions to agree a modification of the TPO and implementation of a long-term management plan to retain tree-cover on this site.

## **6. TREE SERVICE PROCEDURE**

6.1. The Tree Service acknowledges any communications and provides advice and guidance in respect of the resident's right to make an application to manage protected trees by using an application form and how to source Government advice on TPO procedures. The correspondence is reviewed in respect of Council policies and to address the issues raised, a report is compiled and subsequently brought before Committee.

6.2. The Council's response to the objections 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;
- Apart from its own site-assessment, the Council considered data from the Forestry Commission in respect of the re-stocked woodland in its consideration for making the TPO. In making the TPO, the Council's assessment of the two 'woodland' areas is considered consistent with the definition of a woodland as described in the Town & Country Planning Act;
- Orders covering a woodland protect the trees and saplings of whatever size within the identified area, including those planted or growing naturally after the Order was made. While some trees may lack individual merit, the purpose of the

Order is to safeguard the woodland as a whole, which depends on regeneration or new planting.

- The objection specifically identifies T3 (Beech) as a specimen unfit for a TPO due to its apparent condition. The tree was identified as having individual amenity merit as it is a prominent feature on this site and because of its age & condition represents a wildlife habitat in itself. The tree has a defect in its stem with decay evident. The defect in itself is not imminently hazardous but warrants detailed investigation of its wood structure to advise of appropriate management.
- 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 of the trees to be in any way dangerous, hazardous or unsafe, that they seek independent professional advice and consider making TPO application to manage the tree.
- The woodland category should not hinder beneficial woodland management. Whether or not they make an Order, authorities can consider encouraging landowners to bring their woodlands into proper management under the grant schemes run by the Forestry Commission. If a woodland subject to an Order is not brought into such a scheme, authorities can still encourage applications to manage the trees in ways that would benefit the woodland without making a serious impact on local amenity, for example by making a single application for regularly repeated operations.

## **7. SUPPORTING PLANNING INFORMATION**

### **7.1. Relevant planning history includes:-**

07/01215/OUT: Outline application (including layout and access) for the erection of 13 dwellings with access from London Road. Refused 22.02.2008.

15/00294/FUL: Erection of 8no 4 bedroom dwellings and 2no 5 bedroom dwellings with associated access from London Road, landscaping and car parking. Refused 25.06.2015 – subject of current appeal.

15/01252/FUL: Erection of 5no. 4 bedroom and 2no. 5 bedroom dwellings with associated access, landscaping and car parking. Application currently under consideration.

## **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](mailto:jan.polnik@bracknell-forest.gov.uk)