

PLANNING COMMITTEE
17th December 2020

DETERMINATION OF TREE WORK APPLICATION 20/00298/TRTPO

(Director of Place, Planning and Regeneration)

ITEM NO: 07

Application No.	Ward:	Date Registered:	Target Decision Date:
20/00298/TRTPO	Winkfield & Cranbourne	16 th October 2020	7 th December 2020

Site Address: **2 Furzefield (formerly 89 Locks Ride)**
Proposal: **Prune to 'crown-lift' branches of protected Birch up to 2.5 metres.**
Applicant: Mr W McCarthy
Agent: Mr M Welby
Case Officer: Phil Gritten, 01344 352000
tree.service@bracknell-forest.gov.uk



1. PURPOSE OF DECISION

1.1 In accordance with the Bracknell Forest Council's Scheme of Delegation this application is being considered by the Committee where more than 5 objections have been received. Accordingly, the determination of a tree work application is a matter for consideration for the Planning Committee.

2. RECOMMENDATION

2.1. To approve the application subject to condition contained in section 9 of this report.

3. ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

3.1. Borough Solicitor

3.1.1. Guidance on Tree Preservation Orders and their making, confirmation and management has been provided online at [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](http://www.gov.uk). 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 its size and form, it's 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

3.1.3. In accordance with Government Guidance [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](http://www.gov.uk) any loss or damage arising from a local authority's, conditional consent or refusal provides an applicant a right to make a claim for compensation. Similarly, if an appeal is dismissed or conditions imposed, leading to loss or damage, again an applicant has a right to make a claim for compensation. Strict criteria and limitations relating to a Local Authority's compensation liability are detailed within the guidance from: Paragraph: 107 Reference ID 36-107-20140306

3.1.4. In determining applications, if the authority believes that some loss or damage is foreseeable, it should not grant consent automatically. It should take this factor into account alongside other key considerations, such as the amenity value of the tree and the justification for the proposed works, before reaching its final decision.

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. 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).
- 4.3. How the Planning Authority should consider an application to prune or remove protected trees is provided by Government guidance ([Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/guidance/tree-preservation-orders-and-trees-in-conservation-areas))
- 4.4. The Planning Authority has 56 days (8 weeks) in which to determine TPO applications but is not able to make a determination before 28 days which is the statutory public consultation period.
- 4.5. In determining the application, the LPA must consider: -
 - If the proposal is exempt from the need to obtain LPA consent
 - Assessing the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area;
 - In the light of the amenity assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it;
 - Whether any loss or damage is likely to arise if consent is refused or granted subject to conditions;
 - Whether any requirements apply in regard to protected species;
 - Other material considerations, including development plan policies where relevant; and ensure that appropriate expertise informs its decision.
- 4.6. The Birch was previously referenced as T11 in the tree-surveys supporting previous development applications (17/00160/OUT, 18/00249/OUT & 18/00458/REM). A grant of permission to develop (18/00458/REM) included a condition to retain the tree and protect it with fencing for the duration of the construction phase.
- 4.7. On commencement of development, the tree became the focus of attention of adjoining residents and subsequently, as a result of a request and petition by local residents (supported by Councillor Gaw); concerned for its future safety, the Birch was added to TPO 1254 and designated as T2.
- 4.8. Shortly after the modified TPO was served (on 7th. August 2020), the developer made two applications; one to fell the Birch (20/00299/TRTPO) and the other to prune it (20/00298/TRTPO); which is now the subject of this report.
- 4.9. Application 20/00299/TRTPO to fell the Birch has already been determined with a refusal to grant consent to fell.

5. DETAILS OF RESIDENTS' OBJECTIONS

5.1. No expressions of support were received; however, a total of 14 objections, from 11 different households were made within the 28 day public consultation period prior to the 10th November 2020.

5.2. Summary of objections:

The subject tree provides: -

- Intrinsic visual amenity
- Increased biodiversity through habitat
- Veteran characteristics
- Integral to the planning design

There is concern that: -

- The developer has demonstrated a disregard for the landscape character through unlawful pruning of the neighbouring hedge and excessive pruning of the adjacent Holly
- The developer will not engage the services of a professional arborists to meet pruning standards
- There has been an accumulative detriment to the local environment and its biodiversity since the development began – other adjacent Oaks have died, and (allegedly) a badger sett destroyed
- Adjacent properties have been refused consent on the basis of shading (need for consistency in planning to set precedent)

6. TREE SERVICE CONSIDERATIONS

6.1. The Tree Service assess the application in accordance with 'BS 3998:2010 Tree Work – Recommendations' and current arboricultural plant health research.

6.2. All representations (comment, objections and support) are taken in account during the determination of the TPO application and a delegated report is produced for the record and a formal notice of the determination sent to the applicant.

6.3. In the case of multiple communications that raise similar points or issues, the delegated report contains the Council's summary response to the issues raised.

6.4. The Council's response to the objections include: -

- Tree work planning applications are considered on individual merit and in accordance with current planning and arboricultural techniques and standards.
- An acknowledgment by the Tree Service of the various public concerns and objections, whilst accepting that the application to crown-lift the tree to increase unhindered access is not, in principle, an exceptional unreasonable specification nor outside current arboricultural practice.
- A consideration to support the pruning of T2 Birch, but with a condition to limit the extent of Crown-lift to enable the objective to be met, without any long-term detriment to the trees' health & condition nor visual amenity benefit that the tree provides.

7. SUPPORTING PLANNING INFORMATION

- 7.1. Under previously approved application 18/00458/REM, the Birch was shown to be retained and protected by fencing during construction (by a standard tree condition).

8. CONCLUSION

- 8.1. The Council has followed due legislative process, procedure and policy and has addressed the various representations submitted by correspondents and subsequently stated, in this report, the reasons for a conditional grant of consent to prune the Birch.

9. RECOMMENDATION

- 9.1. That the application 20/00238/TRTPO be approved subject to the following condition: Crown-lift by the removal of only the 3 lowest primary branches at their stem union; reference the accompanying annotated photo which clearly identifies the branches consented for removal. All works must comply with arboricultural standard 'BS 3998:2010 Tree Work – Recommendations'.

End of Report

APPENDIX –

Site photos; annotated photo showing recommended branch removal and a general view of tree.





T2 Birch: south aspect