

Planning Committee

Tree Preservation Order (no. 15/2011) Various Trees, Hall Close, North Aston

23 February 2012

Report of Head of Public Protection and Development Management

PURPOSE OF REPORT

To seek the confirmation Tree Preservation Order no 15-11 with 2 (two) objections relating to various tree at Hall Close, North Aston (copy plan attached as Annex 1)

This report is public

Recommendations

The Planning Committee is recommended to:

- (1) Confirm Tree Preservation Order 15/2011 at the site of Hall Close, North Aston without modification in the interest of public amenity.

Summary

Introduction

- 1.1 The District Council made an emergency TPO on 16th September 2011 following an assessment of the trees prompted by a request by a local resident for advice on removing conifers under High Hedges Legislation.
- 1.2 The trees to be protected are a group of individuals making up a tall hedgerow / screen between the Houses on Hall Close and the rear of the properties along Somerton Road.
- 1.3 Guidance in determining the suitability of a tree for a TPO is provided by the TEMPO method (Tree Evaluation Method for Preservation Orders). This has been undertaken and the results included in this document as appendix 2.

- 1.4 The trees are visible from Somerton Road over the top of the properties as well as all the properties situated in Hall Close.
- 1.5 Two letters objecting to the TPO have been received from:
- i. Mrs M. B. Adamson, Gate Cottage, The Green, North Aston, Bicester, OX25 6HX.
 - ii. A. P. Godwin, 1 Hall Close, North Aston, Bicester, OX25 6HR
 - iii. Mr K Bourke-Burrows The Lower House, St. Mary's Walk, North Aston, Bicester, OX25 6AA (on behalf of the four joint owners)

1.6 The objections and due consideration are as follows –

i. Mrs Adamson objects to the preservation of T10, a Sycamore tree on the grounds that:

a. It is not native

CDC The assessment of trees with regard to their suitability for protection is taken on their own merits with regard to contribution to the local area, historical significance and conservation contribution.

The genetic origins of species are not a consideration with ornamental or introduced species also assessed on their contribution to the local area.

b. It is not possible to compost its many and large leaves

CDC Although Sycamore leaves require longer than other species which may decompose more readily they can be successfully composted. Keeping the leaves damp to provide a suitable habitat for the micro organisms which degrade cellulose and turning the compost heap occasionally will improve the decomposition of the vegetative material.

Collecting the leaves with a lawn mower affectively shredding them will further speed up the process.

e. The tree is covered in thick ivy which will cause rotting of the branches

CDC Ivy is not a parasitic plant, it grows on the outside of the host using it purely as a purchase and doesn't cause decay. It is considered a separate plant to the tree protected by the order and so can be removed or severed at the base without the need for an application.

f. The tree shades the gardens of Gate Cottage and the adjacent properties

CDC A shade prediction plan has been provided as appendix 3 showing the direction and extent of shade cast by the tree between the hours of 07.00 and 16.00 on 17th July.

The objectors' garden is not shaded by T10 and it doesn't interfere with the overall enjoyment of their garden in any way. A large Sycamore is situated adjacent to Middle Cottage which is also covered in Ivy, I suspect that the Mrs Adamson has mistaken T10 with this tree which is not included in the Order as it is situated within the North Aston conservation area.

ii. Mr Godwin objects to the preservation of T25 on the ground that:

- a. **The tree has previously had substantial works undertaken reducing its amenity value to the extent that its removal would have no impact on the local landscape**

CDC A Preservation Order does not preclude the possibility of subsequent works or even removal. An application for works can be submitted and will be considered on its own merits.

At present, the tree provides amenity as part of the extended row running adjacent to Hall Close.

Should any evidence be provided that the tree has become unsafe, or declined in health so that it is no longer a significant part of the row, this will be investigated and taken into consideration when consent or refusal is given.

iii. Mr Bourke-Burrows objects to the preservation of T14 and T18 on the following grounds:

- a. **The trees are a common species which have self seeded and have no ornamental or practical merit.**

CDC The assessment of trees with regard to their suitability for protection is taken on their own merits regardless of how they originally arose. Consideration is given to their contribution to the local area, historical significance and conservation contribution both as individuals and as part of a group.

It is arguable that T14 and T18 have limited individual merit. However they provide combined impact as part of the wider group, linking adjacent trees providing an extension to the adjacent woodland creating a link corridor for wildlife as well as a screen for properties on both sides of the trees.

- b. **It was never the development plan that Hall Close should be marked by a line of trees.**

CDC See reply a.

- c. **The branches of the trees overhang the gardens of the adjacent gardens dropping leaves and branches. They cast shade over the bottom part of the garden shading the green house and reduce the number of**

plants that can be grown and cause a feeling of claustrophobia.

CDC It is normal for trees to contain an amount of dead wood. This can be removed in a controlled manner within the legislation without affecting the overall visual amenity of the tree.

There is no obligation for tree owners to ensure uninterrupted light.

A Preservation Order does not preclude the possibility of subsequent works or even removal. An application for works can be submitted and will be considered on its own merits.

It should be noted that the trees are under the ownership of the residents of Hall Close and any statutory protection notwithstanding, work carried out to the trees other than overhanging branches would require the owner's permission.

d. The trees are not plotted in the correct position on plan CDC 18145.

CDC The TPO plan is based on a site visit and aerial photographs of the site. It is indicative and in this case, used in conjunction with the tree schedule, there are no other trees in the vicinity which could be mistaken.

The human rights of the objectors and others affected by the decision, i.e. Article 1 of the first protocol – right to peaceful enjoyment of possessions and Article 8 protection of the right to respect ones private and family life, home and correspondence, were taken into consideration by the amenity value checklist (TEMPO assessment) completed when the Tree Preservation Order was made. To confirm the Order does not place a disproportionate burden on the owner, who retains the right to make applications for works to the tree.

Conclusion

- 1.7 The issues raised by the objector have been addressed and it is recommended that the Committee confirm Tree Preservation Order 15/2011 without modification.

Background Information

- 1.8 Statutory powers are provided through :
- (i) Section 198 Town and Country Planning Act 1990.
 - (ii) Town and Country Planning (Trees) Regulations 1999
- 1.9 The Scheme of Reference and Delegation authorises the Head of Development Control and Major Developments to make Tree Preservation Orders under the provisions of Section 201 of the Town and Country Planning Act 1990, subject to there being reason to

believe that the tree in question is under imminent threat and that its retention is expedient in the interests of amenity. The power to confirm Tree Preservation Orders remains with the Planning Committee.

- 1.10 The above mentioned Tree Preservation Order was authorised by the Head of Development Control and Major Developments and made on 16 September 2011. The statutory objection period has now expired and two objections were received to the Order.

Key Issues for Consideration/Reasons for Decision and Options

The following options have been identified. The approach in the recommendations is believed to be the best way forward

Option One To confirm the Tree Preservation Order

Option Two Not to confirm the Tree Preservation Order

Implications

Financial: The cost of processing the Order can be contained within existing estimates.

Comments checked by Karen Muir, Corporate Systems Accountant, Karen.muir@cherwell-dc.gov.uk 01295 221559

Legal: The Council has the power under s198 Town and Country Planning Act 1990 to make a tree preservation order if it appears expedient in the interests of amenity. The committee must consider any objections and representations duly made.

Comments checked by Ross Chambers, Solicitor, ross.chambers@cherwell-dc.gov.uk 01295 221690

Risk Management: The existence of a Tree Preservation Order does not remove the landowner's duty of care to ensure that such a tree is structurally sound and poses no danger to passers by and/or adjacent property. The TPO legislation does contain provisions relating to payment of compensation by the Local Planning Authority in certain circumstances, but these relate to refusal of applications to carry out works under the Order and no compensation is payable for loss or damage occurring before an application is made.

Comments checked by Claire Taylor, Corporate Performance Manager, claire.taylor@cherwellandsouthnorthants-dc.gov.uk 0300 0030113

Wards Affected

The Astons and Heyfords

Document Information

Appendix No	Title
Appendix 1	Plan
Appendix 2	TEMPO assessment
Appendix 3	Shade Prediction
Background Papers	
TPO file reference 15-11	
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