

Planning Committee

Tree Preservation Order (No. 21/2011) 16 & 18 Bucknell Road, Bicester)

23 February 2012

Report of Head of Public Protection and Development Manager

PURPOSE OF REPORT

To seek the confirmation of an unopposed Tree Preservation Order (no 21/2011) relating to 2 No beech trees (copy plan attached as Appendix 1) at 16 & 18 Bucknell Road, Bicester.

This report is public

Recommendations

The Planning Committee is recommended to:

- (1) Confirm the Order without modification

Background Information

- 2.1 The Scheme of Reference and Delegation authorises the Strategic Director Planning, Housing and Economy 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.
- 2.2 The above mentioned Tree Preservation Order was authorised and made on 29 November 2011. The statutory objection period has now expired and 1 No objection was received to the Order (Appendix 2).
- 2.3 The objection came in the form of an email sent from Cllr J. Lis resident of 39 Hamilton Close and owner of the property immediately adjacent to the properties of 16 & 18 Bucknell Road.

- 2.4 In summary the email from Cllr Lis provides a brief history regarding problems experienced concerning the maintenance of the trees by the owners.
- 2.5 The objection states that both trees are within 2.0m & 6.0m of 39 Hamilton Road and that both trees will provide a hazard to the dwelling if they are not maintained as alleged by Cllr Lis.
- 2.6 Although the issue of maintenance is always a consideration in the TPO evaluation process, it is rarely a significant deciding factor as the responsibilities for 'Duty of Care' lay with the owners.
- 2.7 Just to clarify, it would be inappropriate for an LPA to use a TPO as a tool in resolving neighbour disputes and, although both homeowners raised the issue of a TPO due to works undertaken by the occupiers of No 39 Hamilton Road, the TPO was raised due to the current and potential amenity value of both trees.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 Both trees provide considerable and increasing amenity value for multiple residential properties and garden areas.
- 3.2 Both trees will require regular maintenance from both homeowners to ensure all risks are maintained at an acceptable low level.
- 3.3 Should the occupier at No 37 Hamilton Road have increasing concerns regarding maintenance issues they may approach the owners or submit an application for works themselves to Cherwell DC.
- 3.4 Should there be any future concerns regarding the influences of both trees on adjacent features then the homeowners are advised to contact either a structural engineer or a qualified arboriculturist for further advice.

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,
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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,
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0300 0030113

Wards Affected

Bicester West

Document Information

Appendix No	Title
Appendix 1	Plan
Appendix 2	Objection email from Cllr Lis of 37 Hamilton Road, Bicester
Background Papers	
TPO file reference 21-11	
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