

Planning Committee

**Tree Preservation Order (No. 22/2011)
2 No ash trees, Penn House, 9 Walford Road,
Sibford Ferris, Banbury**

19 July 2012

Report of Head of Public Protection and Development Management

PURPOSE OF REPORT

To seek the confirmation of an opposed Tree Preservation Order (No 22/2011) relating to 2 No ash trees (copy plan attached as Appendix 1) at Penn House, 9 Walford Road, Sibford Ferris, Banbury.

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 trees in question are under imminent threat and that their 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 16/12/2011. The statutory objection period has now expired and 1No objection was received to the Order.
- 2.3 The objection came in the form of written correspondence submitted by the homeowner, Mrs Susan Dixon on the 14th January 2011. A copy of

the objection is attached in Appendix II.

- 2.4 In summary, Mrs Dixon is disappointed that the two trees, which reduce natural light levels across the garden, now cannot be removed due to the TPO which was raised following receipt of a section 211 'Notice of Intent' submitted by herself.
- 2.5 The objection states that it is difficult to grow other plants underneath the canopies of the two trees.
- 2.6 The objection states that Mrs Dixon has a love of trees, has indeed planted three birch trees herself nor has any desire to remove two additional beech trees also present in the same area of garden.
- 2.7 The objection requests a compromise whereby CDC allows the removal of one of the ash trees.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 Walford Road is located within the Sibford Conservation Area.
- 3.2 As part of the Planning consent for the Walford Road development, existing trees located along the northern boundary of the site were identified and agreed for retention in order to provide a level of screening of the development from the adjacent countryside, nearby access roads and the opposing village of Sibford Gower. The 2 No ash trees proposed for removal within the submitted 'Notice of Intent' were part of this line of retained trees / vegetation and are still providing the desired screening effect.
- 3.3 Both ash trees are of a young to semi-mature age classification. Both have single clear stems, defect free and compact healthy crowns.
- 3.4 Aside from the two protected young ash trees, the rear garden of the dwelling also contains 2 No young beech trees. The four trees are located in a linear fashion, east to west and located in close proximity to the northern boundary. Although both beech trees were not inspected, potential structural defects were noted from a distance. The defects noted were 'tight' union forks on the primary stems of both trees. If not managed correctly, there may be an increasing risk of partial tree failure at these unions in the future.
- 3.5 The removal of one of both of the two beech trees may be an option to improve light levels for the homeowner. Due to the defects noted, It is unlikely that either of the two beech trees would be considered suitable for a TPO.
- 3.6 Over an approximate period of 20 – 30 years, the two ash trees will develop into large specimens. Due to the expected confinement of the garden at that time there has to be an acknowledgement from CDC

that, when appropriate, one of the two trees may need to be felled or significantly pruned in order to reduce any anticipated concerns, fears or nuisance issues. Should this TPO be confirmed by Committee, then CDC will be able to enforce replacement planting should one tree (or even both) be felled. Until that time both trees can and should be allowed to continue providing the benefits for which they were originally retained for.

Implications

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

Comments checked by Karen Muir, Corporate Systems Accountant 01295 221559

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 01295 221563

Wards Affected

Sibford

Document Information

Appendix No	Title
Appendix 1	Plan
Appendix 2	Letter of Objection from Mrs Dixon
Background Papers	
NONE	
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