

Forest Heath District Council

**DEVELOPMENT
CONTROL COMMITTEE**

4 FEBRUARY 2015

DEV/FH/15/005

TREE PRESERVATION ORDER - FOREST HEATH DISTRICT COUNCIL: TPO 3, 2014 – 7 BURY ROAD, BRANDON

Synopsis:

A provisional Tree Preservation Order (TPO) was served on one Yew tree on 16 October 2014. The statutory consultation period for the TPO expired on 21 November 2014. An objection has been received in relation to the serving of the TPO.

It is recommended that Members **confirm** the TPO.

Commentary:

1. The District Council's Standing Orders allow for the making of provisional Tree Preservation Orders by your Officers, subject to reporting such action at Development Control Committee.
2. The Yew tree which is subject of this TPO is situated in a prominent location to the front of 7 Bury Road, within the conservation area of Brandon. The tree is visible from Bury Road and also from Market Hill.
3. A Section 211 notice for work to trees in a Conservation Area (DC/14/1718/TCA) was submitted on 11 September 2014 to remove one of the two main limbs of the tree. The reason for the work was that the tree causes excessive shading in lower rooms and overhangs the house. Brandon Parish Council supported the notification.
4. Forest Heath's Tree Officer considered the proposed work would likely have an impact on the amenity afforded by the tree. Lesser work was suggested to prune branches back to give clearance of up to 1.5m from the dwelling. This was not agreed in time to avert the serving of the TPO.
5. The Tree Officer supports a TPO on this tree and has made the following comments:

"This is a significant Yew tree of high amenity value which makes a contribution to the character of the area. The tree has two stems and the proposal is to remove one stem; the reasons are the impact on light levels within the lower rooms of the house. Such works are likely to have an impact on the amenity afforded by the tree. The condition of the tree is not the reason for the

application – neither is there any concern that the tree is causing damage to property. ”

6. Improvements to the light levels in the lower rooms of the dwelling would be improved by the lesser works suggested. In addition pruning back branches would prevent any potential issues of damage to the fabric of the property that might occur in the future.
7. The owner of the tree, the agent who made the notification and the occupiers of the immediate neighbouring properties have been served with a copy of the provisional TPO. The agent acting for the owner has objected because he claims that he agreed to the lesser works on 3 October 2014 by email. Unfortunately this was not received by Officers.
8. A provisional TPO has been served and it is recommended that Members confirm this TPO to prevent the removal of the limb and enable the future retention of the tree. If the TPO is confirmed the pruning of the tree back from the house could be undertaken subject to an application being approved by officers. This level of work is likely to be supported by Officers.

Finance/Budget/Resource Implications:

9. Works to or removal of a tree covered by a TPO will require the formal consent of the Local Planning Authority before any work can be carried out. Currently all such applications are submitted to the Local Planning Authority and do not attract a fee. The Council's Planning Services and Tree Officer will deal with subsequent applications arising as a result of the TPO without any additional fee income. There may also be appeals should TPO consent be refused.
10. Should an application for works to a preserved tree (or for its removal) be refused, the Local Planning Authority may in certain circumstances, be liable to pay compensation to the affected property owner, should the trees cause damage to a property. Such claims are, however, rare and, in this instance, considered unlikely given the assessment of the arboricultural officers.

Environmental Impact and Sustainability:

11. Removal of any trees, which are considered to be worthy of protection in the public interest, would detract from the amenities of the local environment.

Policy Compliance/Power:

12. The Local Planning Authority has powers under the Town & Country Planning Act 1990 and the Town & Country Planning (Trees) Regulations to make a TPO if it appears expedient in the interests of amenity to do so.
13. The making of a TPO in this instance, is in line with the powers and policies of the Council.

Performance Management Implications:

14.The applications determined under the TPO provisions and any subsequent appeals are not currently the subject of any national or local performance indicators.

Legal Implications:

15.The provisional TPO is served on the owner and occupier of the land affected by the TPO, and also on owners and occupiers of adjoining land, who have a period within which to make objections or representations to the Order. The statutory consultation period expired on 21 November 2014.

Human Rights Act and Diversity Implications:

16.These matters have been assessed in relation to and are considered to comply with the requirements of the Human Rights Act 1998. In relation to Article 6, interested parties have been advised of the making of this provisional Tree Preservation Order and their views have been considered within this report. Any interference with Rights under Article 8 and Article 1 of the First Protocol are necessary in the public interest.

Crosscutting Implications:

17.None.

Risk Assessment:

18.As set out above, the Council may, in certain circumstances, be required to pay compensation to owners of properties damaged by preserved trees, if the Council has refused consent to carry out works to the affected tree and such works may have prevented the damage. These claims, however, are rare.

Council Priorities:

19.The Council is keen to safeguard the built and natural environment.

Recommendation:

20.It is recommended that the report be noted and Members resolve to confirm the Tree Preservation Order.

Documents Attached:

Working Paper 1 – Location Plan

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