

Forest Heath District Council

**DEVELOPMENT
CONTROL COMMITTEE**

4 FEBRUARY 2015

DEV/FH/15/005

TREE PRESERVATION ORDER – FOREST HEATH DISTRICT COUNCIL: TPO 2, 2014 – 50 THE STREET, GAZELEY

Synopsis:

A provisional Tree Preservation Order (TPO) was served on four groups of trees on 13 August 2014. The statutory consultation period for the TPO expired on 19 September 2014. No objections have been received in relation to 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 trees which are subject of this TPO comprise of the following groups:
 - G1 – 4 Tree of Heaven and 1 Horse Chestnut
 - G2 – 1 Ash and 3 Sycamore
 - G3 – 1 Sycamore and 1 Ash
 - G4 – 1 Horse Chestnut and 1 Sycamore
3. The trees are situated within the rear garden of No.50 The Street, Gazeley. This rear garden site benefits from outline planning permission (ref: DC/14/0527/OUT) for the erection of two detached dwellings with garages and the conversion of the existing dwelling No.50 The Street into two dwellings. This was approved under delegated powers on 17th October 2014.
4. During the consideration of the outline planning application the Tree Officer assessed the trees within the site and recommended a TPO for the following reasons:

"These trees within the garden of the existing property at 50 The Street, Gazeley form an attractive backdrop and as such contribute to the amenity of the locality. This TPO is required to ensure that the trees are retained and protected whilst the property is developed and into the future"

5. The owner of the trees and the occupiers of the immediate neighbouring properties have been served with a copy of the provisional TPO. No objections have been received.
6. Gazeley Parish Council have made no comments in relation to the provisional TPO, however, in their response to the planning application they did query the need to preserve non-native trees such as the Tree of Heaven. Whilst these comments have been taken into consideration, it is Officer's opinion that these trees make a positive contribution to the amenity of the locality and as such would warrant retention.
7. A provisional TPO has been served and it is recommended that Members confirm this TPO to enable the future retention of the trees.

Finance/Budget/Resource Implications:

8. 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.
9. 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 health and location of the trees.

Environmental Impact and Sustainability:

10. 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:

11. 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.
12. The making of a TPO in this instance, is in line with the powers and policies of the Council.

Performance Management Implications:

13. 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:

14.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 19th September 2014.

Human Rights Act and Diversity Implications:

15.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:

16.None.

Risk Assessment:

17.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:

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

Recommendation:

19.It is recommended that the report be noted and Members confirm the Tree Preservation Order.

Documents Attached:

Working Paper 1 – Location Plan

CONTACT OFFICER

Julie Sheldrick
Tel: 01638 719227