
Meeting: Development Management Committee
Date: 2 February 2011
Subject: Confirmation of Tree Preservation Order No. 12/2010 - Land at 13 Dukes Ride, Leighton Buzzard
Report of: Andy Jones - Tree and Landscape Officer
Summary: To request that the Committee consider the unresolved objection made from Mr L Cook of 13 Dukes Ride, Leighton Buzzard following the making of Tree Preservation Order No. 12/2010, and to confirm the Order without modification.

Contact Officer: Andy Jones X 75161
Public/Exempt: Public
Wards Affected: Plantation Ward
Function of:

CORPORATE IMPLICATIONS

None

RECOMMENDATIONS:

That the Committee confirms the Tree Preservation Order (TPO) without modification, subsequent to the TPO being made provisionally for 6 months, with the provisional Order due to expire on the 13th April 2011.

Background

1. The Tree Preservation Order (TPO) was instigated in response to an application to the Local Planning Authority to fell a Silver Birch tree, being approximately 40 years old, on the basis that :-
 - a) It was in a narrow raised bed and gave excessive shading to the house.
 - b) Its trunk sloped towards the house.
 - c) It was overhanging the driveway access to neighbouring property.
 - d)

It was subsequently established by the LPA that although the Birch tree was in an area surrounded by protected trees, this particular specimen had been planted after the estate was built and was not actually protected. The application was therefore considered to be invalid and was withdrawn, but the tree was noted as being "at risk" of felling and was placed on an inspection list.

A subsequent site visit was made on the 5th October 2010 when it was noted that the Birch was a fine, mature specimen tree that was situated in a high profile part of the road frontage, in an area where trees were normally protected by a Tree Preservation Order. It was considered that the reasons for removal were unjustified and there were no valid safety concerns or any actionable nuisance being caused by the canopy with adjacent property. It was considered that to allow the removal of this tree for the reasons given would undermine the integrity of the estate layout typified by its woodland character. It was further considered that the alleged nuisance being caused by this tree was no different than that caused by other trees on the estate and for this reason the LPA could not condone its removal.

2. A TPO was then made on the one individual Silver Birch (T1) for the reasons that:-

- The Silver Birch makes an important contribution to a designated “Area of Great Landscape Value” of high quality landscape, characterised by extensive broadleaved woodland, and the removal of the tree would be harmful to the treescaped character of the area.
- The Birch tree is visible from the surrounding public highway and footpaths and makes a positive contribution to the visual amenity of the estate.

3. Following the serving of the TPO, an objection was received from Mr L Cook, the owner of 13 Dukes Ride, on the 30th October 2010 enclosing a petition from neighbours at 14, 15, 16, and 17 Dukes Ride. The petition signatories signed a statement confirming that they had no objection to the proposed removal and replacement of this tree with an alternative species, or to regular pruning of this tree if felling was considered to be unacceptable. The specific grounds for the objection were given as follows:-

- Mr & Mrs Cook planted the Silver Birch tree 35 years ago when they had no idea how big the tree would grow.
- Mr & Mrs Cook applied to the Council to fell the tree as it was felt that this was the appropriate action to take, and that they could have easily felled the tree since the tree was not officially protected at that time.
- The tree deposits significant twig and leaf debris during the whole season and sticky deposits in spring and excessive seed fall in the autumn, which clog the house and car drainage system. The impact of seed fall on the car drainage system has been particularly troublesome to the reliability of the car’s computer and other electronic systems.
- Mr & Mrs Cook have pruned and reduced the height of the tree in the past, but as this may not be possible now that the TPO is in place, they would prefer to replace the tree with one more favourable to them.
- There are many Silver Birch trees in the immediate area and as most are much more attractive and in far better condition, it is considered that the visual aspect would be enhanced if the tree was replaced.

4. The Tree & Landscape Officer's response to these points of objection are:-
- The Silver Birch is an important component of the treescape in the northern part of Leighton Buzzard and makes a significant contribution to the character and visual amenity of the area.
 - The removal of a tree for the reasons given by the owners is considered to be unsustainable. Given the trees location, felling was considered to undermine the designated "Area of Great Landscape Value", which is typified by a mature broadleaved treescape.
 - The Birch was identified as being at risk from felling and the LPA have a general duty under the Town and Country Planning Act 1990 to protect trees where it is considered expedient to do so.
 - The tree has a high visual profile in the streetscene and is not considered to be an inferior specimen.
 - Although the LPA welcomes any proposal to plant replacement trees in anticipation of replacing existing trees as they become over-mature, it is not accepted that the Silver Birch is in a poor condition. In fact there are no better examples of this particular species in the immediate area.
5. The Silver Birch has been assessed under TEMPO ("Tree Evaluation Method for Preservation Orders"), which is a nationally recognised system, produced by an independent arboricultural consultant, where scores are allocated towards meeting certain criteria needed required to justify a TPO. The scoring produced by the valuation method indicates that any score between 11 to 14 points merits a "*defensible TPO*" and that any score over 15 points "*Definitely merits a TPO*". Following an inspection on the 5th October 2010, it was found that the following scoring was applicable to this tree:-

Silver Birch (T1)

The Silver Birch has a score allocation of 17 points based on the fact that it is

- In good condition (5 points)
- Has a retention span of between 20 to 40 years (2 points)
- Medium tree clearly visible to the public (4 points)
- Tree has no other factors (1 point)
- There is an immediate threat to the tree (5 points)

6. The Tree & Landscape Officer made further representations to Mr Cook justifying the making of the Order, and to confirm if Mr Cook wished to withdraw the objection in writing. Mr Cook replied that he did not wish to withdraw the objection and asked that the Committee are shown his letter of objection, petition and original application. The objection therefore remains unresolved.

Appendices: - Copy of Tree Preservation Order No. 12/2010

Copy of letter from objector dated 30th October 2010 and petition.

Original application documents to fell the tree.