

BROMSGROVE DISTRICT COUNCIL

PLANNING COMMITTEE

Date 7th March 2011

TREE PRESERVATION ORDER (NO. 14) 2010 - TREES ON LAND TO THE SOUTH OF POPLAR CLOSE AND WOODBANK DRIVE, CATSHILL, BROMSGROVE

Relevant Portfolio Holder	Councillor Mrs. J. Dyer M.B.E.
Relevant Head of Service	Head of Planning and Regeneration Services
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Committee is asked to consider the confirmation of Tree Preservation Order (No. 14) 2010 relating to trees on land to the south of Poplar Close and Woodbank Drive, Catshill.

2. RECOMMENDATION

- 2.1 It is recommended that Tree Preservation Order (No. 14) 2010 is confirmed without amendment.

3. BACKGROUND

- 3.1 On the 24th September 2010 a provisional Tree Preservation Order was made in relation to trees on land to the south of Poplar Close and Woodbank Drive, Catshill.
- 3.2 The Order was made to protect the trees as they contributed significantly to the amenity in the area.
- 3.3 Notification of the Order was given to all persons in the surrounding area and all who could be affected by the making of the order.
- 3.4 The Tree Preservation order was made on a temporary basis on the 24th September 2010 and remains in force until the 24th March 2011.
- 3.5 Three letters of objection have been received. The first objection (copy is attached as Appendix A) is from the land owner and comprises of the following elements:
- (1) That the landowner intends to allow the area to remain the same and undisturbed as much as possible. Any work to be done to the trees will be sought through professional advice and the permission of the Council.

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- (2) The main reason for the purchase of the land is to avoid any planning for construction where they live and to use and maintain the field that can be accessed through it and also the woodland.
- (3) The landowner recommends that if the Tree Preservation Order is made permanent it is amended to protect only selected trees as opposed to the woodland order.

3.6 The Tree and Woodland Officer's comments are as follows:

- (1) The new owners have stated an intention to maintain the woodland as wildlife habitat and use the field which can only be accessed through it. While the intention to maintain the woodland is welcomed, woodland management is such a specialised area that this maintenance would be likely to result in considerable damage to the biodiversity and amenity value if not carried out correctly and in accordance with a considered woodland management plan. The continued presence of the TPO will ensure that works damaging to the woodland cannot be carried out without the advice and consent of the Council's Tree and Woodland Officers.
- (2) In respect of the access through the woodland, due to the extremely soft and unstable ground of the site, regular access would only be possible after a solid trackway has been constructed. Attempting such access without such construction would cause considerable damage to both the woodland and the public footpath. The construction of a trackway could be done without causing undue damage providing that suitable methods of construction and tree protection are used but without the continued presence of a TPO such methods could not be enforced.

See appendix G for the Tree and Woodland Officers report.

3.7 The second objection is from an adjacent occupier and is as follows (attached at Appendix B):

"The protected trees grow outwards, across the boundary of the resident's property and into the garden. Therefore causing a hindrance and, without regular pruning back, would take over the garden and prevent the enjoyment of the property. The resident is requesting consent to cut back straying branches as the need arises.

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The section of land adjacent to the resident's property which is part of the temporary tree preservation order is a steep bank. There are a variety of trees all of which are mature and of some considerable height. Many of these trees have branches that bow over, being too heavy to bare their own weight. This causes concern as to the risk to the property if they fall."

3.8 The Tree and Woodland Officer's comments as follows:

"While the continued presence of the TPO will require consent to be sought for the pruning back of overhanging branches, the growth rate of the species concerned is such that such consent should only be required every few years at most if the works are carried out correctly in accordance with British Standards of tree work as would be a requirement of any consent under the TPO. Carrying out works to these standards would also be expected to leave the trees in a condition where they were less prone to developing areas of disease and decay and thus improving the safety of adjacent residents.

In respect of the concerns raised regarding tree safety, as trees are self modifying structures, they adapt themselves to support their own weight as well as the normal working conditions to which they are exposed. Trees may fail as a result of factors such as natural disease or storm damage but the most common cause of tree failure results from human activities causing damage to roots or decay following incorrect pruning. Consequently the continued presence of the TPO will serve to ensure a higher quality of tree work where required rather than any inexpert 'judicious pruning'."

3.9 The third objection is from an adjacent occupier and is as follows (attached at Appendix C):

"The woodland area has not been managed or maintained for many years and this has resulted in a number of trees becoming unstable, weakened by disease or engulfed by ivy. On a number of occasions weakened trees or large fragments of them have snapped off during high winds and they have fallen into resident's gardens or across the public footpath which runs through the woodland.

Trees have overgrown and now formed dense hedges along resident's boundary lines which has caused lighting issues.

Residents are willing to work with the land owners in order to maintain the woodland."

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3.10 The Tree and Woodland Officer responds as follows:

- (1) As discussed above, the responsibility for trees lies with the owner of the land and this situation is unchanged by the continued presence of a TPO. The ongoing involvement of Council Officers as a result of a permanent TPO would, however, increase the likelihood of hazardous trees being detected and appropriate works to prevent damage or injury being carried out before failure occurs.
- (2) With regard to the height of trees and the blocking of light, there is no maximum height of a tree or automatic right to light in such a situation. Given the sloping aspect of the site, only the clearance of the whole woodland would have any significant affect on light levels while the amenity and biodiversity value of the woodland would be destroyed.
- (3) In respect of future maintenance of the woodland, the requirement for consultation and consent as a result of the woodland TPO will ensure that only the appropriate works are carried out and that these are carried out correctly by suitable trained, qualified, experienced and insured tree surgeons. In the absence of the TPO, the likely result of maintenance sympathetic to the desires of residents would be unsympathetic or highly damaging to the ecology of the woodland and reduce the amenity value of the site.

4. **KEY ISSUES**

4.1 To protect trees which provide an amenity value.

5. **FINANCIAL IMPLICATIONS**

5.1 There are no financial implications relating to the confirmation of the TPO.

6. **LEGAL IMPLICATIONS**

6.1 Town and Country Planning (Trees) Regulations 1999, covers this procedure.

7. **POLICY IMPLICATIONS**

7.1 None

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8. **COUNCIL OBJECTIVES**

8.1 Council objective 4 - Environment, Priority C04 Planning

9. **RISK MANAGEMENT INCLUDING HEALTH AND SAFETY CONSIDERATIONS**

9.1 There are no significant risks associated with the details included in this Report.

10. **CUSTOMER IMPLICATIONS**

10.1 The customers have been provided with the relevant notification and the responses received are attached. The customers will receive notification of the decision of this committee.

11. **EQUALITIES AND DIVERSITY IMPLICATIONS**

11.1 None.

12. **VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT**

12.1 None.

13. **CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY**

13.1 The proposal in relation to confirming the Tree Preservation Order can only be seen as having a positive impact on the environment.

14. **HUMAN RESOURCES IMPLICATIONS**

14.1 None.

15. **GOVERNANCE / PERFORMANCE MANAGEMENT IMPLICATIONS**

15.1 None.

16. **COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998**

16.1 None.

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17. **HEALTH INEQUALITIES IMPLICATIONS**

17.1 None.

18. **LESSONS LEARNT**

18.1 None.

19. **COMMUNITY AND STAKEHOLDER ENGAGEMENT**

19.1 The provisional Tree Preservation Order was made in September 2010 and remains in force for 6 months; it was served upon all those affected by the Order. The documentation provides details of how and when objections and representations should be made. In this case the deadline for objections was the 11th November 2010.

20. **OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	No
Chief Executive	No
Executive Director (S151 Officer)	No
Executive Director - Leisure, Cultural, Environmental and Community Services	No
Executive Director - Planning and Regeneration, Regulatory and Housing Services	No
Director of Policy, Performance and Partnerships	No
Head of Planning and Regeneration Services	Yes
Head of Resources	No
Head of Legal, Equalities and Democratic Services	Yes
Corporate Procurement Team	No

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21. **WARD AFFECTED**

21.1 Catshill.

22. **APPENDICES**

Appendix A Letter of Objection from Land Owner dated 1st November 2010

Appendix B Letter of Objection from adjacent occupier dated 1st November 2010

Appendix C Letter of Objection from adjacent occupier dated 11th November 2010

Appendix D Letter received from local resident dated 20th September 2010 - Tree and Woodland Officer has made no comments.

Appendix E Photos of the site taken on the 24th September 2010

Appendix F Plan of woodland attached to the provisional Tree Preservation Order

Appendix G Report from the Tree and Woodland Officer dated 16th February 2011

23. **BACKGROUND PAPERS**

23.1 None.

24. **KEY**

24.1 N/A

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