

BROMSGROVE DISTRICT COUNCIL

PLANNING COMMITTEE

18TH JUNE 2007

TREE PRESERVATION ORDER (NO. 16) 2006

Responsible Portfolio Holder	Councillor Mrs. J. Dyer M.B.E.
Responsible Heads of Service	Head of Planning and Environment Services Head of Legal and Democratic Services

1. SUMMARY

1.1 Consideration of Tree Preservation Order (No. 16) 2006.

2. RECOMMENDATION

2.1 It is recommended that the Order be confirmed without modification on the basis that the trees provide special amenity value.

3. BACKGROUND

3.1 Following queries received by the Council's Woodland Officer, Mr. A. Bucklitch, as to the possibility of root damage being caused to conservatories at the rear of properties at Holly Dell, Walkers Heath, he inspected the two oak trees in question. He considered that the trees could be 'at risk' and an emergency tree preservation order was made to protect them.

3.2 Tree 'T2' was originally shown to be in the rear garden of No. 27 but, in fact, is located close to the border between No. 27 and No. 29. Consequently, the Tree Preservation Order is to be revised showing the new location as 27/29 Holly Dell.

3.3 A letter of objection has been received from Mrs. Simpson, of No. 25 Holly Dell, who is concerned about the possibility of falling branches causing damage to her property and structural damage to her conservatory - see Appendix 1.

3.4 Mr. Bucklitch has prepared a Memorandum, attached at Appendix 2, in response to Mrs. Simpson's concerns. He has commented as follows:-

"Concerns over tree safety

Under Common Law, responsibility for maintenance and liability for any foreseeable damage or injury which is proved to be caused by a tree rests with the owner. Concerns over whether this is likely to occur should therefore be addressed to the tree owner who would be strongly advised to have the tree inspected to assess this risk. Where this has been done and works are required

on safety grounds, then an application should be made under the TPO. In such a case, such works will generally be looked on favourably. General fears alone are not sufficient to justify the loss of the trees rather than to suggest the need for the owners to have them professionally inspected.

Alleged damage to conservatories

From my own investigations, it would appear that the soil of the Holly Dell area has a high clay content. The properties of Holly Dell were therefore built in accordance with Building Regulations standards with sufficiently deep foundations to avoid damage from clay shrinkage either with or without the presence of any trees. As far as I am aware, this has meant that none of the original properties have suffered any damage from ground movement.

Several of the properties in Holly Dell have had conservatories built under permitted development rights. Such conservatories are not required by law to be built to building regulations standards and thus it appears that such standards have not been followed. Given the high clay content of the soil it is therefore unsurprising that these substandard buildings have suffered the worst damage is well outside the expected influence zone of the trees. In addition, one of the conservatories at Holly Dell has been built by a company who have built it to regulations standards despite not being required by law to do so. That conservatory appears to have suffered no damage.

It is therefore my view that the damage is the result of poor, possibly negligent, design and construction with wholly inadequate foundations for the prevailing ground conditions in the area rather than the influence of the trees. No evidence has yet been provided to suggest otherwise."

4. **FINANCIAL IMPLICATIONS**

4.1 None.

5. **LEGAL IMPLICATIONS**

5.1 Town and Country Planning (Trees) Regulations 1999.

6. **CORPORATE OBJECTIVES**

- 6.1 (a) To provide a clean, safe and attractive environment.
(b) To protect and improve our environment.

7. **RISK MANAGEMENT**

7.1 There are no anticipated risks.

8. **CUSTOMER IMPLICATIONS**

8.1 None.

9. **OTHER IMPLICATIONS**

9.1	Procurement Issues	None
	Personnel Implications	None
	Governance / Performance Management	None
	Community Safety (including Section 17 of the Crime and Disorder Act 1998)	Trees not considered to be at risk
	Policy	None
	Environmental	Amenity value
	Equalities and Diversity	None

10. **OTHERS CONSULTED ON THE REPORT**

10.1	Portfolio Holder	No
	Acting Chief Executive	No
	Corporate Director (Services)	No
	Assistant Chief Executive	No
	Head of Planning and Environment Services	No
	Head of Legal and Democratic Services	No
	Head of Financial Services	No
	Head of Organisational Development and Human Resources	No
	Corporate Procurement Team	No

11. **APPENDICES**

11.1 Appendix 1 - letter, dated 2nd January 2007, from Mrs. R. Simpson, of 25 Holly Dell, Walkers Heath, Birmingham

11.2 Appendix 2 - Memorandum, dated 4th June 2007, from Mr. A. Bucklitch, Woodland Officer

12. **BACKGROUND PAPERS**

12.1 Tree Preservation Order (No. 16) 2006.

CONTACT OFFICER

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