

CHESHIRE EAST COUNCIL

SOUTHERN PLANNING COMMITTEE

Date of meeting:	1 May 2013
Report of:	Development Management and Building Control Manager
Title:	Tree Preservation Order at The Old Vicarage, Crewe Road, Winterley

PURPOSE OF THE REPORT

To inform the committee about the background and issues surrounding the making of a Tree Preservation Order on 5th February 2013 at The Old Vicarage, Crewe Road, Winterley. CW11 4RE; to consider the objections and representations made to the TPO and to determine whether to confirm or not to confirm the Order or to confirm subject to modifications.

SUMMARY RECOMMENDATION

The Development Management and Building Control Manager recommends that the Northern Area Planning Committee confirm the Tree Preservation Order at The Old Vicarage, Crewe Road, Winterley CW11 4RE with no modifications.

WARD AFFECTED

Sandbach Ettiley Heath and Wheelock

POLICIES

NR1 (4.32) (4.33) are relevant to the making of the Order.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

The validity of a TPO may be challenged in the High Court on the grounds that the TPO is not within the powers of the Act or that the requirements of the Act or Regulations have not been complied with in respect of the TPO. When a TPO is in place, the Council's consent is necessary for felling and other works, unless the works fall within certain exemptions e.g. to remove a risk of serious harm. It is an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy any tree to which the Order relates except with the written consent of the authority.

RISK MANAGEMENT

The loss of trees could have a significant impact upon the amenity and landscape character of the area. The confirmation of this Tree Preservation Order will ensure that the Council maintains adequate control over trees of amenity value.

CIRCUMSTANCES

The circumstances are that a planning application was received for the demolition of the existing building and the construction of 5 dwellings on land occupied by The Old Vicarage, Crewe Road, Winterley.

The application is supported by a Tree Survey which has identified trees within the site and categorised them in terms of their condition and contribution to the amenity of the area.

In considering the application concern has been raised that the proposed housing plot to the south of the site presents an unsatisfactory relationship to a fully mature Beech tree located adjacent to the Crewe Road frontage.

A Tree Preservation Order was placed on the trees in February 2012 in response to the planning application but due to an oversight the Order was never confirmed. Subsequently the new Town and Country Planning (Tree Preservation) (England) Regulations 2012 came into force on 6th April 2012 consolidating and simplifying the TPO system and adopting a system where all new Orders provide immediate provisional protection that lasts for 6 months, within which time the authority may or may not confirm the Order. Orders not confirmed within this time frame lapse and cannot be confirmed later.

The new legislation made provision for any TPO made but not confirmed prior to the 6th April 2012 to be confirmed within six months of that date (i.e by 5th October 2012). TPOs not confirmed in this time frame lapse and could not be confirmed later.

In the time following the serving of the original Order and the subsequent lapse of that Order, it has come to the Council's attention that there is the possibility the tree may continue to be under threat of removal by the landowner.

A telephone call was made to a Council officer enquiring about the possibility of felling and removal of one of the mature Beech trees.

In light of the new legislation and the continued threat to trees, the original Tree Preservation Order has been re-served under the new regulations and following consultation can now be considered for confirmation.

CONSULTATIONS

On making the TPO a planning authority must publish and serve copies on owners and occupiers of land directly affected by it. There is a 28 day period to object or make representations in respect of the Order. If no objections are made the planning authority may confirm the Order itself if they are satisfied that it is expedient in the interests of amenity to do so. Where objects or representations have been made,

then the planning authority must take them into consideration before deciding whether to confirm the Order.

The Order was served on the owner/occupiers of the land and their Agents on 5th February 2013. Copies of the Order were also sent to adjoining landowners who are immediately affected by the Order, Sandbach Town Council and Ward Members for Sandbach Ettiley Heath and Wheelock.

VIEWS OF THE PARISH/TOWN COUNCIL

No comments have been received.

OBJECTIONS/REPRESENTATIONS

One objection has been received from Mr T Ashley, Mrs C P Ashley and Miss C Ashley of Meadow Cottage, 11 Elton Lane, Winterley, Sandbach. CW11 4TN. They manage the site and have done since 1992 and say they are firm supporters of tree retention and wild life promotion. They have pointed out there has never been a tree protection order on the property before and do not feel there are sufficient reasons to apply one now.

The objections are as follows:

- The site had four large mature Beech trees of roughly the same age, three fronting the Crewe Road perimeter of the property and a fourth standing to the rear of the vehicular access. Following a tree survey in 2008 one tree adjacent to the Crewe Road had to be felled as soon as practicably possible, as it had a large fungal bracket growing on it and was revealed to be hollow up the central core of the trunk when cut down. A second tree to the north of the felled tree (at the front of the vehicular access to 'The Old Vicarage' within the northern central section of the garden) was also recommended for felling as it had succumbed to the same disease. Our concern is that the two remaining trees may also succumb to this disease and should not therefore be considered a long term amenity.
- The tree T2 the Beech standing to the rear of the vehicular access consists of four trees growing together and has a significant hollow where the four trunks converge. It requires some remedial pruning to prolong its life: crown thinning and lifting, to avoid branches being damaged by vehicles accessing the site. Travelling from the Sandbach direction T2 is one of several trees in the northerly part of the site and we consider it is not indispensable as a long term amenity feature.

We consider tree T1 (standing adjacent to the Crewe Road frontage within the southern corner of the former garden of 'The Old Vicarage') is too close to the road, standing a mere four feet six inches from the road. High sided vehicles continually catch branches overhanging the road resulting in a long bare trunk, showing evidence of branches which have had to be removed over the years. It is a lonely sentinel when approaching from the southerly side of the site and we consider its removal and replacement with a smaller tree, or trees, set further back from the road on the southerly perimeter of the garden could more easily provide a long term amenity feature and would also afford more privacy for the site when approached

from the direction of Winterley. The existing Lime saplings (adjacent to the Beech tree) would be left in situ until the other trees along the southern perimeter head become more mature thus preserving a visual amenity to be enjoyed by the wider public.

We have consulted Highways for their opinion on the close proximity to the road of T1 but as yet have not had a formal response except for a reference number hopefully they will respond before you make your decision. Please consider our objections and bring them to the notice of the Planning Committee.

APPRAISAL AND CONSIDERATION OF THE NOTIFICATION

Point 1:

The infection of the two previously removed Beech trees referred to in the 2008 survey does not imply that the two remaining trees will necessarily become diseased and therefore it is considered that these two trees continue to contribute significantly to the long term amenity of the area.

An inspection of the two beech trees (T1 and T2 of the proposed Order) has confirmed there is currently no evidence of fungal infection.

Point 2:

An inspection of Beech T2 has confirmed no significant structural defects to the main stem. It is therefore considered this does not currently impact upon the structural integrity of the tree.

The objectors cite a requirement for some remedial pruning to avoid being damaged by vehicles accessing the site. This appears to be reasonable and the Council would see no objection to pre development pruning works carried out to the tree in order to facilitate plant and other machinery on to the site subject to a detailed specification of works submitted to the Council.

There are several other trees to the north of the site in association with Beech T2. Whilst some of these trees do confer some amenity to the area it is considered that the Beech is the most significant specimen that warrants protection.

Point 3:

There is evidence of branches previously cut back to accommodate the safe passage of high sided vehicles on Beech T2. It is considered the Council would offer no objection to an application being submitted to maintain the safe passage of vehicles over the highway.

The suggestion that the removal of Beech T2 and its replacement with smaller trees set back from the road would not provide the immediate amenity benefit the Beech currently provides as it would take a considerable length of time before such planting would attain the size and significance of the Beech.

It is the Councils view that the trees' close proximity to the road does not present any significant hindrance to the highway.

RECOMMENDATION

That the Cheshire East Borough Council (Sandbach – The Old Vicarage, Crewe Road, Winterley No2) Tree Preservation Order 2013 is confirmed without modification.