

SOUTHERN PLANNING COMMITTEE 25th FEBRUARY 2015

CHESHIRE EAST BOROUGH COUNCIL (BUNBURY – LAND WEST OF OAK GARDENS) TREE PRESERVATION ORDER 2014

PURPOSE OF THE REPORT

To inform the committee about the background and issues surrounding the making of a Tree Preservation Order (TPO) on 31st October 2014 on land west of Oak Gardens, Bunbury; 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 the Order subject to modification.

SUMMARY RECOMMENDATION

The Development Management Southern Area Manager recommends that the Southern Area Planning Committee confirms the Tree Preservation Order.

WARD AFFECTED

Bunbury

POLICIES

Policy NE5 of the Crewe and Nantwich Replacement Local Plan 2011 (saved policies) refers to the integration of Trees, Woodlands and Hedgerows. Policy SE5 Trees, Hedgerows and Woodland of the emerging Local Plan that refers to the trees and woodlands that make a significant contribution to amenity, biodiversity, landscape or historic character and paragraph 118 of the NPPF relating specifically to aged or veteran trees.

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 of trees 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, landscape and biodiversity of the area. The confirmation of the Tree Preservation Order will ensure that the Council maintains adequate control over trees of amenity value in its administrative area.

CIRCUMSTANCES

On 27th August 2014 the Council received an outline application from Elan Homes for residential development for 17 dwellings on land off Oak Gardens, Bunbury (App 14/4062N). The application was supported by an Arboricultural Report which provided an assessment of the environmental and amenity values of all the trees within and immediately adjacent to the application site and the arboricultural implications of the proposed development.

The Report identified 48 trees within and immediately adjacent to the site, many of which were identified as moderate and high quality which contribute significantly to the amenity of the area. The trees include a number of mature Oak trees some of which have potential Veteran status and a Veteran Ash tree (T36 – T3 of the TPO) located within the centre of the site. A submitted Phase 1 Habitat report also identified that the Ash tree has a number of hollows and crevices which may be suitable for roosting bats.

The sketch layout supporting the planning application shows the proposed positions of dwellings, associated gardens and the access driveway which will result in the loss of the Veteran Ash and potentially impact upon other trees by virtue of the proposed relationship and social proximity to development.

An amenity assessment was carried out in accordance with Government guidance which has determined that the trees are visually prominent from various public vantage points including Oak Gardens, Wakes Meadow and public footpaths running through the site. The trees contribute to the visual amenity, landscape character and biodiversity of the area and in the light of this assessment it was considered expedient to make the Order to protect the trees. The opportunity was also taken to protect an area of woodland to the west of the site, where some of the trees along the boundary overhang the application site. The woodland also provides a sylvan buffer between any future proposed development and the open countryside beyond.

CONSULTATIONS

On making a 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 objections 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 owners/occupiers of the land and their Agents on 31st October 2014. Copies of the Order were sent to adjoining landowners who were immediately affected by the Order, Bunbury Parish Council and the Ward Member.

OBJECTION/REPRESENTATIONS

The Council has received one objection to the Tree Preservation Order from Elan Homes on behalf of the owners Mr and Mrs Goodyer. The objector objects to the inclusion of the Ash (T3 of the TPO) on health and safety grounds as it is situated in line with a claimed footpath route and that it poses a risk to the public.

An e-mail has been received from Susan Reid, formally of 8 Wakes Meadow, Bunbury in support of the Order.

APPRAISAL AND CONSIDERATION OF OBJECTIONS AND REPRESENTATIONS

The Arboricultural Report submitted in support of the application provides preliminary recommendations for the Veteran Ash which includes a reduction of the crown by 50% and future pollarding as part of a long term management plan to prevent collapse. Crown reduction is considered an accepted practice to ensure the safety of Veteran trees recognised by Natural England who provide advice on their management and restoration. The position of the Ash tree is also located some distance to the north and west of the confirmed location of the nearest public right of way (Bunbury FP14) and therefore it is considered that future management of the tree will satisfactorily address any long term risks associated with the use of the public footpath.

CONCLUSION

In the light of the submitted planning application received and the impact upon trees which contribute to the visual amenity and biodiversity of the area, it is considered that the loss and potential loss of trees would have a detrimental impact on these recognised amenities. It is considered that the risk stated in the objection to the Order can be effectively managed in accordance with the advice provided by the applicant's Arboriculturist and Natural England best practice on the management of Veteran Trees. It is therefore expedient for the Council to confirm the Order.

RECOMMENDATION

That the Cheshire East Borough Council (Bunbury – Land West of Oak Gardens) Tree Preservation Order 2014 be confirmed without modification.