

## **Cheshire East Council**

### **Southern Planning Committee**

**Date of meeting: 8<sup>th</sup> July 2015**

**Report of: Chris Hudson, Principal Forestry and Arboricultural Officer,  
Environmental Planning**

**Title: Cheshire East Borough Council (Sandbach - Manor Rd No.3) Tree  
Preservation Order 2015**

### **PURPOSE OF THE REPORT**

To inform the committee about the background and issues surrounding the making of a Tree Preservation Order (TPO) on 24<sup>th</sup> February 2015 on agricultural land between The Hill (A533) and Manor Road ; to consider the objections and representation 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 Head of Planning (Regeneration) recommends that the Southern Area Planning Committee confirms the Tree Preservation Order on land between The Hill and Manor Road, Sandbach.

### **WARD AFFECTED**

Sandbach Heath and East

### **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 and landscape character 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 11<sup>th</sup> April 2014 the Council received an outline planning application for up to 75 residential dwellings off Manor Road, Sandbach with all matters reserved except for access (App 14/1946C). The application was subsequently refused by Strategic Planning Board on 25<sup>th</sup> June 2014. The application is currently under appeal. A second outline application was received on 8<sup>th</sup> December 2014 (App 14/5586C) also for 75 dwellings which was subsequently refused on 23<sup>rd</sup> June 2015.

The planning application was supported by an Arboricultural Report which identified the condition and quality of trees within the site.

The site is an agricultural field approximately 3 hectares in size, relatively flat with hedgerows and trees located within open countryside to the east of Sandbach Heath residential area.

The Leonard Cheshire Care Home including 'The Hill', which is a Grade II Listed Building abuts the site on part of its south-eastern boundary. There are residential properties to the west and the north and open countryside to the east of the site

Five mature Oak trees located within the central and northern sections of the site and two groups of Sycamore adjacent to the boundary of Hill House have been identified for inclusion within the Order which are visually prominent within the immediate area and wider landscape and complement the sylvan character of the area.

An amenity evaluation of all the trees on the site was carried out in accordance with Government guidance. The assessment confirmed that the trees contribute to the visual amenity and landscape character of the area and in the light of this assessment it was considered expedient to make an Order to protect the trees.

Under powers delegated to the Head of Planning (Regeneration), a Tree Preservation Order was made on 24<sup>th</sup> February 2015.

## **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 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 24<sup>th</sup> February 2015. Copies of the Order were also sent to any adjoining landowners who are immediately affected by the Order, Sandbach Town Council and Ward Members for Sandbach Heath and East.

## **OBJECTIONS/REPRESENTATIONS**

The Council has received one objection to the Tree Preservation Order from Strutt and Parker LLP who are Agents acting for Betley Court Estate. The objector objects to the Order and its implementation for the following reasons:

- An Arboricultural Report was submitted as part of the planning application which states that Oak (T1) has less than 10 years remaining contribution with an 'extensive cavity beneath the main trunk, large pieces of deadwood, stem injury with cavity on southern stem and extensive animal burrowing. Other trees in the centre of the site Oaks (T2 and T3) have 'deadwood, storm damage and cattle trampling'. The majority of other proposed TPO trees are of moderate quality and value in the landscape' (T2, T2 and G1 Group). The Sycamore in group G2 is noted as a 'tree of low quality and value in the landscape'.
- During the applications consultation period no response was registered from the Authority's Tree and Landscape Officers and the Officers Report did not raise any concern with regard to the removal of the two trees within the centre of the site. Loss of trees was not a recommended reason for refusing the planning application
- A resubmitted planning application which again proposed the removal of trees was resubmitted in December 2014 and no formal responses were registered from the Tree or Landscape Officer.
- Planning Practice Guidance states that justification for a proposed Tree Preservation Order should be based on the importance of tree referring to size and form, future potential as an amenity, rarity, arboricultural or historical value or contribution or relationship to the landscape.
- As the Arboricultural Survey was undertaken in December 2013, it is deemed unlikely that the quality of trees has improved. In comparison the Authority has not provided any justification for the TPO designations.

## **APPRAISAL AND CONSIDERATION OF OBJECTIONS AND REPRESENTATIONS**

### Objection by Strutt and Parker on behalf of Betley Court Estate

The objector was advised that an Amenity Evaluation Assessment of the trees was carried out by the Council prior to serving the Order in January 2015 in order to determine their condition and contribution to the amenity and local landscape setting. The Council's assessment fully accords with the requirement of Government advice contained in paragraph 008 of Planning Practice Guidance *Tree Preservation Orders and trees in Conservation areas* which states that Council's should assess the amenity value of trees in a structured and consistent way taking into account visibility, individual, collective and wider impact and other factors

The Council's assessment disagrees with the content and advice contained in the submitted Arboricultural Survey in respect of the condition of Oaks T1, T2 and T3. With regard to Oak T1, the survey identifies the tree as an A3 category tree and as a U category tree. The British Standard classification (BS5837:2012) does not allow trees to be categorised within more than one category as each category clearly defines their life expectancy, arboricultural, landscape and cultural qualities. As an A3 category tree has a life expectancy of at least 40 years and a U category tree no longer than 10 years; the tree cannot both have a life expectancy of more than 40 or less than 10 years. A 'U' category tree is based on three bullet points in the British Standard; irremediable structural defects, dead trees and trees infected with significant pathogens or low quality suppressed trees. The Council's assessment of the tree has not found any evidence to suggest that the tree meets this particular criteria.

Oaks T2 and T3 have been categorised a Low (C) category and Moderate (B) category trees. The Council's assessment considers that both these trees should be High Quality (Category A) trees as their suggested condition and landscape contribution does not qualify them to be in the low category

Both the Council's Arboricultural and Landscape Officers provided a formal consultation response to both planning applications which have been included in the Planning Officers reports. Reference was made to the service of the Tree Preservation Order in the second application (App 14/5586C) which stated that should the Order be confirmed, the indicative layout would have to be amended, which may result in a reduction in the number of proposed dwellings, but would not preclude residential development on the site.

The Council's Arboricultural Officer has identified that the trees are visible from a number of public vantage points along The Hill and Manor Road and contribute to the setting of a Grade II Listed Building.

The Council Arboricultural Officer does not agree with the tree quality assessment submitted by the applicant's arboriculturist and considers the

report unnecessarily downgrades the quality of some trees. The report has also incorrectly identified one tree, an Oak as an Elm (Tree Ref 4702)

## **CONCLUSION**

In the context of this development proposal, the Order identifies which trees the authority considers to be important in terms of their contribution to the amenity of the area. The risk of such development pressures has been recognised in Government advice as an appropriate test of expediency for raising a TPO.

The Council has demonstrated that the trees contribute significantly to the visual amenity of the area and the Order allows for retained trees to be protected and ensures that full consideration is given to the retention of trees in any future development of the site and to give weight to such conditions or otherwise as part of any development proposals.

In the light of the submitted planning application indicating the change of use of land and the impact on trees which trees contribute significantly to the visual amenity of the area, was deemed expedient in the interests of amenity to make a TPO

## **RECOMMENDATION**

That the Cheshire East Borough Council (Sandbach – Manor Road No.3) Tree Preservation Order 2015 be confirmed without modification