

## **Northern Planning Committee**

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**Date of Meeting:** 14<sup>th</sup> September 2022

**Report Title:** Cheshire East Borough Council (Chelford – Ashcroft Drive) Tree Preservation Order 2022

**Portfolio Holder:** Councillor Toni Fox - Planning

**Senior Officer:** David Malcolm- Head of Planning

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### **1.0 Report Summary**

- 1.1 To inform the committee about the background and issues surrounding the making of a Tree Preservation Order on 28<sup>th</sup> March on trees bordering a new development at Ashcroft Drive; to consider representations made to the Council with regard to the contents of the TPO and to determine whether to confirm or not to confirm the Order.

### **2.0 Recommendation**

- 2.1 The Head of Planning (Regeneration) recommend that the Northern Area Planning Committee confirm the Tree Preservation Order on land at Ashcroft Drive with no modifications

### **3.0 Reason for Recommendation**

- 3.1 The removal of trees shown for retention on plans approved with new development 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 a linear group of trees of amenity value.

### **4.0 Background**

#### **4.1 Introduction**

- 4.2 The linear group of high amenity trees are located on the northeastern boundary of the former Chelford Agricultural Centre site off Dixon Drive, Chelford. Further to the approval of planning application 18/0171M for 89

residential dwellings, David Wilson Homes has commenced development on site and properties are now becoming occupied by new homeowners.

- 4.3 The circumstances are that the Council has received enquiries regarding the protection of the trees further to a future occupier expressing the intention to remove trees upon completion of sale of the property. The linear group of trees is approximately 70 metres in length and extends southeast from Dixon Drive along the rear residential boundaries of new properties on Ashcroft Drive adjacent to a footpath which connects to public right of way. The group of amenity trees are considered to contribute to the landscape character and sylvan setting of the area and provide screening and a buffer between the new estate a footpath and existing residential properties
- 4.5 An amenity evaluation has determined that while all the trees contribute to the visual amenity and landscape character of the area that there was a demonstrated risk of the trees being removed and therefore it was considered expedient to make an Order to protect the better-quality trees within the group which were considered capable of being a long term amenity feature.
- 4.6 Under powers delegated to the Head of Planning (Regeneration), a Tree Preservation Order was made on 28<sup>th</sup> March 2022.

#### Report Format

- 4.7 The information contained in this report is divided into three sections:
- Section 5 provides a summary of the TPO service and consultation process
  - Section 6 provides a summary of the objections/representation made (see Appendix 3 & 4).
  - Section 7 provides the Council's appraisal and consideration of the objection.

### **5.0 Consultation**

- 5.1 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.
- 5.2 The Order was served on any property whose title deeds extended across the subject area on 28<sup>th</sup> March 2022. Copies of the Order were also sent to the local Ward Member, the developer, and a site notice was placed on the verge for the attention of residents.

## **6.0 Objections/representations**

- 6.1 The Council has received one objection to the Tree Preservation Order from Barret and David Wilson Homes
- 6.2 Objection 1
- 6.3 With regards to the recent notice we have received regarding the Councils intention to put a TPO on trees within our development, in the interest of our future customers we have the following objections to make in relation to G1 that has been included within the TPO:
1. G1 (oak and horse chestnut) stand in close proximity to the newly built dwelling and are likely to require repeated pruning to maintain a balanced relationship with the property.
  2. G1 stands on the end of the linear group of trees and does not form a principal part of the group, rather it is the end of this group feature.
  3. The amenity offered by G1 is limited by the location which is largely private other than the infrequently used footpath. The removal of G1 would not have a significant impact on the amenity of the wider area.

## **7.0 Appraisal and consideration of the objection**

- 7.1 The below response has been provided to the issues which have been referred to;
- 7.2 With reference to objection 1, the referenced trees within group G1 of the Order stand to the northeast of the closest dwelling and do not impact on any primary aspect windows standing at approximately 10 metres from the closest elevation, with the main area of amenity space extending to the rear of the property to the southwest and away from the protected trees. The need to occasionally crown raise and reduce overhang branches is acknowledged, but such works are not considered likely to be detrimental to the long-term health and amenity of the trees and can be carried out in accordance with the requirements of BS 3998:2012 Tree Work – Recommendations to ensure that trees are retained in the longer term.
- 7.3 With reference to objection 2; a gap is depicted between the groups due to a natural break in the overall linear group of trees along the north-eastern boundary of the site. Government Guidance advocates the use of the group category where an individual category would not be appropriate and given the space between 2 groups of trees, the trees within group G1 are not considered to be of lesser importance than those trees within group G2. The correct categorisation of the trees is therefore considered to have been applied.
- 7.5 With reference to objection 3, the trees within group G1 are located to the southwest side of a connecting footpath which joins PROW (public right of

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Way) Chelford FP1. The trees are widely visible from the designated PROW, the railway, and the connecting footpath. The suggestion that the footpath is infrequently used is disputed given the directional signage noted during the site assessment at the north western end of the path as it is accessed off Dixon Drive which was titled 'Chelford Buzzy Bees Woodland Walk', an initiative supported by Manchester Airport Community Trust Fund.

## **8.0. Implications of Recommendation**

### **8.1 Legal Implications**

8.1.1 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, willfully damage or willfully destroy any tree to which the Order relates except with the written consent of the authority.

### **8.2 Finance Implications**

8.2.1 No direct implication

### **8.3 Policy Implications**

8.3.1 Cheshire East Local Plan – SE5 - Trees, hedgerows and woodland

### **8.4 Equality Implications**

8.4.1 No direct implication

### **8.5 Human Resource Implications**

8.5.1 No direct implication

### **8.6 Risk Management Implications**

8.6.1 No direct implication

### **8.7 Rural Communities Implications**

8.7.1 No direct implication

### **8.8 Implication for Children & Young People/Care for Children**

8.8.1 No direct implication

## **8.9 Climate Change -**

8.91 The retention of mature trees where possible is in accordance with the Councils Climate Change Agenda

## **8.10 Public Health Implications**

8.10.1 No direct implication

## **8.11 Ward Members Affected**

8.11.1 High Legh

## **9.0 Access to Information**

9.1 The following document is appended to this report

Appendix 1 – Provisional TPO document  
Appendix 2 – Amenity Evaluation Checklist  
Appendix 3 – Objection 1  
Appendix 4 – Objection 2

## **10.0 Contact Information**

**10.1** Any questions relating to this report should be directed to the following officer.

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