

Bath & North East Somerset Council

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| MEETING: | Development Control Committee |
| MEETING DATE: | 5 th June 2013 |
| TITLE: | Tree Preservation Order: Bath and North East Somerset Council (Redhill House, Red Hill, Camerton No.5) Tree Preservation Order 2013 |
| WARD: | Camerton |
| AN OPEN PUBLIC ITEM | |
| List of attachments to this report: Plan showing the area protected by the served Tree Preservation Order Plan of proposed modified Tree Preservation Order | |

1 THE ISSUE

1.1 An objection has been received from the owner of Redhill House following the making of the Tree Preservation Order entitled Bath and North East Somerset Council (Redhill House, Red Hill, Camerton No.5) Tree Preservation Order 2013 ("the TPO"), which was provisionally made on the 1st February 2013 to protect all trees within the area encircled in a dotted black polygon and identified as A1 on the plan which make a contribution to the landscape and visual amenity of the area.

2 RECOMMENDATION

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council (Redhill House, Red Hill, Camerton No.5) Tree Preservation Order 2013 with a modification to protect two groups of trees; one group of 6 Sycamores in the north eastern corner which are located to the north of the existing entrance and a second group which includes 7 Sycamores; 1 Beech, 1 Pine and 1 Blue Atlas Cedar which are located along and near to the eastern boundary by the road commencing from the south of the existing entrance.

3 FINANCIAL IMPLICATIONS

3.1 Financial: Under the law as it stands the owner of a tree cannot claim compensation from the Council for making a tree the subject of a tree preservation order. However if the tree is covered by a tree preservation order and the Council refuses an application to fell the tree, the owner may be able to claim compensation if he or she suffers a loss or damage as a consequence of that refusal.

3.2 Staffing: None.

3.3 Equalities: In deciding to make the TPO the provisions of the Human Rights Act 1998 have been taken into account. It is considered that Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property) of the convention rights apply in this matter. Confirmation of the TPO is however, considered to be a proportionate interference in the wider public interest.

3.4 Economic: None.

3.5 Environment: The trees which are the subject of this report make an important contribution to the visual amenity and landscape in the local area.

3.6 Council Wide Impacts: The confirmation of the TPO will involve officers from Legal Services. Officers from Development Control will need to take account of the trees when considering any application for development or alterations on the site which might affect them.

4 THE REPORT

4.1 Background

4.2 The trees which are the subject of the TPO are growing within the grounds of Redhill House, Red Hill, Camerton within the area encircled in a dotted black polygon and identified as A1 on the attached plan.

4.3 The Council's Senior Arboricultural Officer received a request from Camerton Parish Council for a Tree Preservation Order to be made on the property following an investigation by Bath and North Somerset Council regarding a change of use of the property which was brought to this Committee on 13th February 2013 and on 13th March 2013 following a Committee site visit. The investigation included concerns from colleagues within Highways regarding the visibility which the current entrance drive provided for visitors when vehicles left the property onto Red Hill. The trees were considered to be a contributory factor in obstructing the visibility.

4.4 The trees were not protected so the owner could remove the trees without the need to notify the Council. The trees were viewed and assessed to be considered to be of sufficient landscape merit that a Tree Preservation Order should be made so that there was an opportunity to ensure that the trees and their visual contribution within the landscape were given due consideration.

4.5 The area designation was used as an interim measure to enable the Council's Senior Arboricultural Officer to enter into discussions with the owner and assess the merit of individual trees within the property.

4.6 Following the making of the Order the Council's Senior Arboricultural Officer has met with the owner of the property to assess the trees in more detail and has recommended that the TPO be modified to two groups of trees. The officer considers that it is neither expedient or appropriate to include other trees on the site because they are either:

- i. not considered to be at risk, such those trees on the western boundary
- ii small ornamental trees which are not readily visible to the general public, such as the Holly and tree Cotoneasters within the garden area
- iii in questionable condition such as the western most Pine growing near to the southern corner of the property and one of the two Sycamores with extensive basal decay in the north western corner.

4.7 Responses to the Tree Preservation Order

4.8 The Council are required to take into account all duly made objections and representations before deciding whether to confirm the TPO.

4.9 One e-mailed objection has been received from the owner following the making of the TPO and prior to the officer's recommendation to modify the TPO.

4.10 The main objections are summarised below.

- i) The owner would like to landscape their garden as and when it is needed rather than to wait for permission.
- ii) The Sycamores provide protection from the road and are a screen so would not be under threat unless their removal would significantly increase the visibility when leaving the property.
- iii) The other trees are mostly fast growing such as Pine and Hazel and need constant care and attention.

4.11 The objections to the Tree Preservation Order outlined in section 4.10 above have been considered by the Officer and the following comments are made in respect of each point:

- i) The recommended modification to the TPO would ensure that the more usual management operations within the garden are not hindered and that pruning of the smaller trees which are not named within the TPO need not need permission.
- ii) The Sycamore trees are directly referred to within the Enforcement Report brought to Committee on 13th January 2013 and 13th February 2013. The report states that in order to make significant improvements to visibility to provide a safe means of access for business use, considerable alterations to the bank which would necessitate the loss of the mature trees. Following communications between the Senior Arboricultural Officer and owner the owner has withdrawn the objection to the group of trees along the eastern boundary to the south of the existing entrance but maintains the objection to the group of Sycamores to the north of the entrance so that an opportunity exists for the owner to fell these trees. The officer, therefore, considers that it remains expedient to provide the trees with protection.

- iii) The modified TPO would include one mature Pine but exclude a second Pine which is exhibiting crown dieback and which has developed a sharp fork. The owner has been alerted to the condition of this tree. The modified TPO would not prevent the management of those trees which are not named within the TPO.

4.12 Representations have been received from Camerton Batch Local Nature Reserve Supporters Group and Camerton Parish Council in support of the TPO.

4.12 Relevant History

4.13 12/00372/UNAUTH – details with Planning Enforcement.

4.14 13/00604/TPO – felling of one Cherry tree (felling of one Sycamore withdrawn from the application) - CONSENT

5.0 LEGAL AND POLICY FRAMEWORK

Tree Preservation Order

5.1 A tree preservation order is an order made by a local planning authority in respect of trees and woodlands. The principal effect of a tree preservation order is to prohibit the:

Cutting down, uprooting, topping, lopping, wilful damage or wilful destruction of trees without the council's consent.

5.2 The law on tree preservation orders is in the Town and Country Planning Act 1990 and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into effect on 6th April 2012 .

5.3 A local planning authority may make a tree preservation order if it appears

“Expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”

5.4 The Council's Arboricultural Officers have a written method for assessing the 'Amenity' of trees and woodlands considered to be under threat. This is in keeping with Government guidance, and takes account of the visual impact of trees and their contribution to the landscape, their general overall health and condition, their longevity and their possible or likely impact on services and property.

5.5 This assessment concluded, having taken account of, visual amenity, tree health considerations and impact considerations, that it would be expedient in the interest of amenity to make provision for the preservation of the trees. The TPO was made on 1st February 2013 and took effect immediately and continues in force for a period of six months.

Planning Policy

5.6 Bath and North East Somerset Local Plan including minerals & waste policies 2007

C2.22 'Trees are an important part of our natural life support system: they have a vital role to play in the sustainability of our urban and rural areas. They benefit:

- the local economy – creating potential for employment, encouraging inward investment, bringing in tourism and adding value to property;
- the local environment by reducing the effects of air pollution and storm water run off, reducing energy consumption through moderation of the local climate, and providing a wide range of wildlife habitats;
- the social fabric in terms of recreation and education'

C2.23 'Much of the tree cover in the urban areas is in a critical condition and there is little or no replacement planting for over-mature trees in decline. Infill development has often reduced the space available for planting large tree species. In addition, new tree planting takes many years to mature. The management and retention of significant trees is therefore pressing'

C2.25 'Bath & North East Somerset has a duty under the Town and Country Planning Act 1990 to ensure tree and woodland preservation wherever it is appropriate. The Council will continue to protect trees and woodlands through Tree Preservation Orders (TPOs) as appropriate. There is also a level of protection afforded to trees in Conservation Areas (CAs). However there are many trees of value outside these designations and careful consideration should be given to the removal of any tree'

6. CONCLUSION

6.1 The trees contribute towards the local visual amenity and are valued by local residents.

6.2 Confirmation of the TPO would ensure the retention of the trees, however, an application supported by sound arboricultural reasons for pruning or felling as the need arose in the future can be made under the TPO. The Council will then be able to condition the quality of the workmanship and appropriate replacement planting if considered appropriate.

6.3 The area designation used in the original TPO which was served is not considered the most appropriate designation for the long term protection of trees. The area designation means that all trees of whatever species, condition, quality or visual contribution which were present at the time of the making of the TPO are protected. This means that the owner would currently need to apply for works for any tree works to any trees on the property which is considered onerous and unnecessary. Over time it can become less clear which trees were present at the time the TPO was made and which have developed or been planted since.

6.4 In keeping with the Council's commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO subject to the recommended modification.

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| Contact person | Jane Brewer 01225 477505 |
| Background papers | The provisional Tree Preservation Order documentation and correspondence can be viewed by contacting Jane Brewer on the above telephone number. |