

Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	14 th January 2015
TITLE:	Tree Preservation Order: Bath and North East Somerset Council (Midmar, Richmond Road, Beacon Hill, Bath No.304) Tree Preservation Order 2014
WARD:	Lansdown
AN OPEN PUBLIC ITEM	
List of attachments to this report: Tree Preservation Order map Letter of objection	

1 THE ISSUE

1.1 An objection letter has been received from the owner following the making of the Tree Preservation Order entitled Bath and North East Somerset Council (Midmar, Richmond Road, Beacon Hill, Bath No.304)Tree Preservation Order 2014 (“the TPO”), which was provisionally made on the 23rd September 2014 to protect one Silver Birch located in the front garden. The tree is identified on the map and makes a contribution to the landscape and visual amenity of the Bath Conservation Area.

2 RECOMMENDATION

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council (Midmar, Richmond Road, Beacon Hill, Bath No.304) Tree Preservation Order 2014 without modification.

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 a 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 tree which is the subject of this report makes 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 tree when considering any application for development or alterations on the site which might affect them.

4 THE REPORT

4.1 Background

4.2 The tree which is the subject of the TPO is a mature Silver Birch growing within the front garden of Midmar, Richmond Road and readily visible to the general public as shown on the accompanying plan.

4.3 The Council made the Order because a notification was received to reduce the height by up to 10-12 feet, reduce the sides by up to 8-10 feet and crown lift up to 10-12 ft.

4.4 Silver Birch does not respond well to pruning because it has weak defences against decay development. This is referred to in section 7.2.2 of the British Standard 3998:2010 Tree Work – Recommendations. The standard also states that Birch species ‘..should be pruned as sparingly as possible...’

4.5 The tree provides an important contribution to the landscape character and amenity of the area.

4.6 The work proposed was not considered to follow current best practice and the quality of any workmanship could not be conditioned in response to a conservation area tree notification.

4.7 Responses to the Tree Preservation Order

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

4.9 One letter of objection has been received from the owner of the property.
Committee Members are advised to read the letter of objection which is attached.

4.10 The main objections are summarised below.

- i) The tree shades the lawn and flower beds
- ii) The tree dominates the bungalow and plot
- iii) The root system is damaging the drive
- iv) The lower branches are beginning to reach the bungalow.

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 tree will provide some shade to the ground below. The most shaded area will be to the north of the tree where the drive is located. Silver Birch are suitable trees for domestic gardens because they produce finer branches, smaller leaves and a less dense foliage cover in summer.
- ii) Sympathetic pruning proposals which are based on current best practice would be favourably received. Conditions relating to the quality of workmanship can be applied to any consent .
- iii) The macadam drive has not been regularly maintained. However, no evidence of root damage was identified at the time of your officers' inspection.
- iv) Sympathetic pruning proposals would be favourably received, however, at the time of your officers site visit no growth was identified which had reached the bungalow.

4.12 Relevant History

4.11 11/04408/TCA – Silver Birch – fell. WITHDRAWN

14/03891/TCA - Silver Birch – reduce the height by up to 10-12 feet, reduce the sides by up to 8-10 feet and crown lift up to 10-12 ft.. Tree Preservation Order made

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. 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 tree. The TPO was made on 23rd September 2014 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 tree contributes towards the local visual amenity within the Bath Conservation Area and World Heritage Site.

6.2 Confirmation of the TPO would ensure the retention of the tree, 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 In keeping with the Council's commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO without modification.

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.

Madam,
Richmond Road,
Bath.

BAI SPS.
27.10.14.



Ms Jane Brewer,
Senior Arboriculturist,
Bath & North East Somerset Council.
Lewis House,
Bath. BAI 15C.
Dear Madam,

I have received from you the notice of the application of the Tree Preservation Order 2014 on a Silver Birch tree in the front garden of the above address. I have been associated with this property for over thirty six years and the only time any work has been carried out on the tree was some thirty years ago. This surely indicates that the growth has been unchecked for a long time and needs to be reduced in order to remain

in balance with the property. The care of the tree will remain the same and the status of the tree will continue as before with no need for a T.P.O. and therefore I request that such an order is not placed on this Silver Birch.

During a recent telephone conversation I sought your advice as to how the tree could be reduced in size in a sympathetic manner and you suggested that I should seek the help of a tree surgeon. I have engaged Mr C. Samler, a professional tree surgeon, who has worked with you many times and has contracted you with his proposals and I have forwarded his ideas with my application form. You did not find them acceptable and so I have revisited the site again with Mr Samler who still believes that the suggested reduction is a fair compromise with the Council.

I note that any observations should

be made to the Council by 5th November 2014
and I enclose the following comments

- i The trunk is very large and multi stemmed leading to an extensive canopy that shades the sun and light from the lawns and flower beds.
- ii The Birch is so large that the bungalow and plot are overwhelmed
- iii The root system is forcing the drive to fracture
- iv The lower branches are beginning to reach the bungalow which raises the question of safety.

I am aware that representation can be made in person and I would find it very helpful to report to the Committee in order to resolve this problem as soon as possible. I would therefore be most grateful if you would kindly inform me of the date, time and place of the meeting. Yours faithfully, Mrs. L. Payne

Scale 1:1250
Date: September 2014
Plan No: 500/304
Grid Ref: ST 748660

Title:
TOWN AND COUNTRY
PLANNING ACT 1990
BATH AND NORTH EAST
SOMERSET COUNCIL
(Midmar, Richmond Road,
Beacon Hill, Bath No. 304)
TREE PRESERVATION
ORDER 2014



Mark Reynolds
Group Manager
Development Management

