

Bath & North East Somerset Council	
MEETING:	Development Management Committee
MEETING DATE:	4 th May 2016
TITLE:	Tree Preservation Order: Bath and North East Somerset Council (Bondene, 25 Highmead Gardens, Bishop Sutton No.4) Tree Preservation Order 2016
WARD:	Stowey Sutton
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 (Bondene, 25 Highmead Gardens, Bishop Sutton No.4) Tree Preservation Order 2016 (“the TPO”).

1.2 The TPO was provisionally made on the 3rd February 2016 to protect a group of trees consisting of two Beech and one Acer species within the grounds of the property and shown on the accompanying map which are considered to make a contribution to the landscape and visual amenity of the locality.

2 RECOMMENDATION

2.1 The Development Management Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council (Bondene, 25 Highmead Gardens, Bishop Sutton No.4) Tree Preservation Order 2016 without modification.

3 FINANCIAL IMPLICATIONS

3.1 Financial: Under the law as it stands the owner of a group of trees cannot claim compensation from the Council for making it the subject of a tree preservation order. However if a tree/s within the group and is/are covered by a tree preservation order and the Council refuses an application to fell the tree/s, 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 group 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 Management will need to take account of the group of trees when considering any application for development or alterations on the site which might affect it.

4 THE REPORT

4.1 Background

4.2 Following the submission of a planning application, officers received a request for the trees to be protected by members of the local community because of the visual contribution which they provided. The trees were assessed and considered to be of sufficient amenity to make a TPO.

4.3 The group is readily visible from surrounding roads and are skyline features as a result of the local topography. The trees are located on land which gently rises to the south towards Burlledge Hill.

4.4 The group therefore is considered to provide an important visual amenity and contribute to the landscape character of the locality.

4.5 Responses to the Tree Preservation Order

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

4.7 One letter of support has been received from a local resident stating that they consider that the trees are highly visible, help define the character of the area and contribute towards the landscape.

4.8 One letter of objection has been received from the owner of the property. As a result of this objection the decision on whether the TPO should be confirmed or not must be made by Councillors. Committee Members are advised to read the letter of objection.

4.9 The main objections are summarised below.

- i) The planning application has been withdrawn for the time being.
- ii) The trees are not considered important to the locality.
- iii) The owner has planted trees which they consider would compensate for the removal of the trees which are the subject of the TPO.
- iv) The trees will become potentially dangerous to the owners' property, surrounding properties and road.
- v) The trees will require management and pruning in the future.

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

- i) The withdrawal of the planning application does not secure the protection of the trees which could be removed at any time without the Tree Preservation Order.
- ii) The trees are readily visible to the general public and as a response to a potential threat to the trees the Council has received a request for the trees to be protected and a letter of support for the TPO from local residents.
- iii) A TPO does not prevent development but remains a material consideration in assessing planning applications. A TPO provides the opportunity to secure appropriate replacement planting should protected trees require felling for sound arboricultural reasons. Replacement planting conditions can be dispensed with if other trees already exist in the vicinity of the protected trees.
- iv) The owner has not provided any evidence or documentation to support their statement that the trees will become potentially dangerous. Tree owners should ensure that their trees are regularly assessed by a suitably qualified and experienced arborist and that any essential works are undertaken irrespective of whether their trees are protected or not.
- v) A TPO does not prevent management of the trees but an application would be necessary. Applications for works which are supported with sound arboricultural justification will be favourably received. Any reputable tree surgeon will be familiar with the application process and amount and quality of information required.

4.11 Relevant History

4.12 15/05561/OUT- Erection of new, two storey, three bedroom detached house, on land at 25 Highmead Gardens.. WITHDRAWN

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 3rd February 2016 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

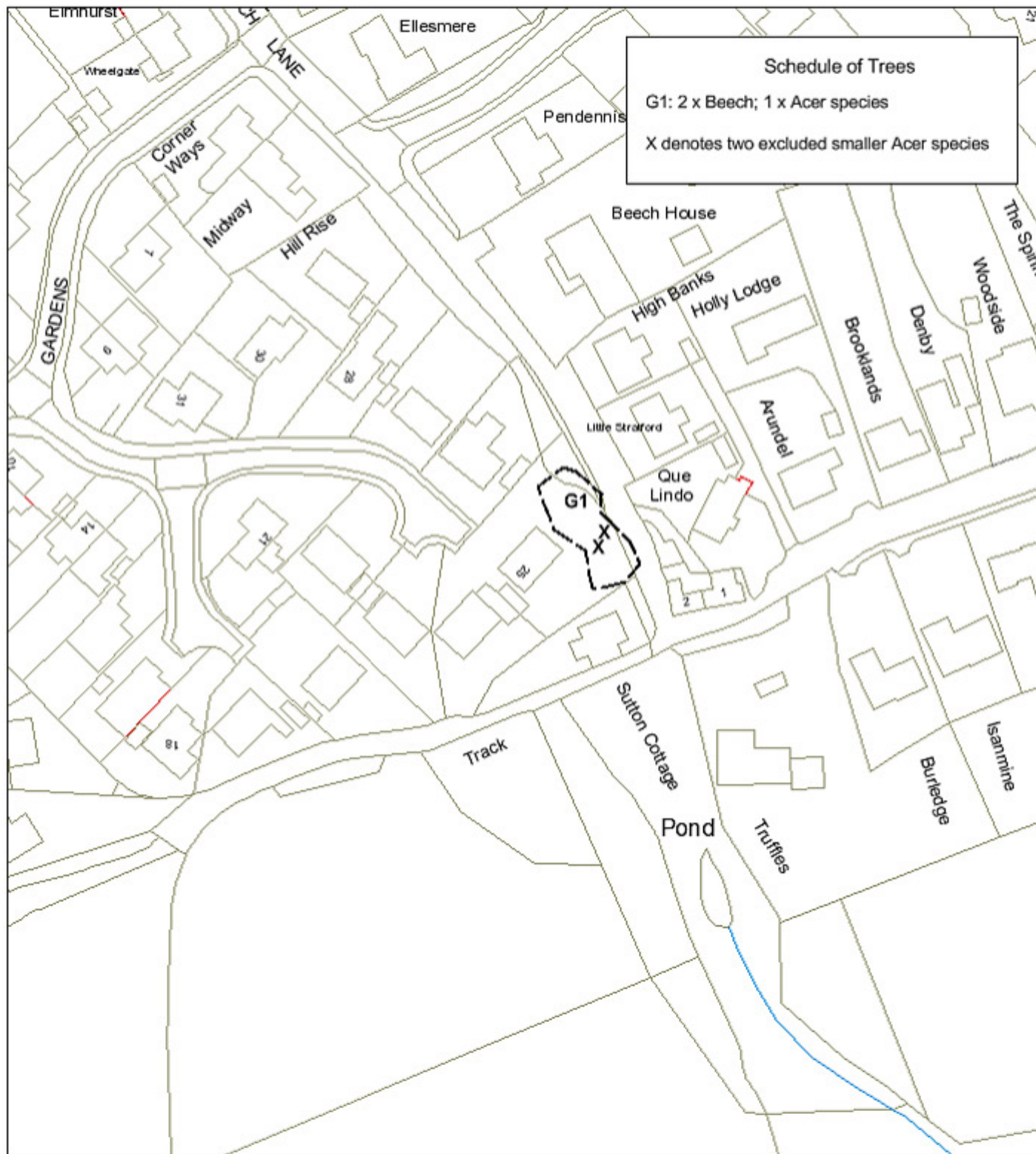
6.1 The group contributes towards the local visual amenity and is valued by members of the local community. This is demonstrated by the request for the trees to be protected and letter of support received.

6.2 Confirmation of the TPO would ensure the retention of the group and ensure that their contribution is duly considered in any subsequent planning application which may be submitted and by the Council during consideration of any application.

6.3 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.

6.4 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.



Title:
TOWN AND COUNTRY PLANNING ACT 1990
BATH AND NORTH EAST SOMERSET COUNCIL

Scale 1:1250
Date: January 2016
Plan No: 542/4
Grid Ref: ST 587594

(Bondene 25 Highmead Gardens, Bishop Sutton No.4)

TREE PRESERVATION ORDER 2016

Mark Reynolds, Group Manager
Development Management

> MR C D BURKE
> BONDENE
> 25 HIGHMEAD GARDENS
> BISHOP SUTTON
> NR BRISTOL
> AVON
> BS39 5XB
> 22/02/16

>
> To Emma Watts.

>
> I OBJECT TO THE TREE PRESERVATION ORDER PLACED ON MY TWO TREES . in connection with the recent planning application submitted by my Son Jon Burke.

>
> The planning application has been withdrawn for the time being.

>
> There has been a lot of Development in my area over the past few years, with very Large Houses being built in to the hillside nearby to where I live and I can appreciate some peoples concern. But I don't see why these Trees are so important to the locality, even though I like the trees myself and with a different design development may not need to be fully removed anyway.

>
> For many years now (16 +) I have nurtured and taken care of this woodland for my now late Mother, and have replanted more young trees (6 young Oak trees for example, at the opposite end of the woodland area. So this would compensate in years to come of any trees that may have to be removed because of any development, or disease, rotten trees.

>
> Because of the size of the Trees it is near a point whereby the trees are potentially dangerous to my Bungalow and existing houses, and the road nearby, irrespective of whether I intend to develop the site. Therefore they will need to be carefully managed over the coming years and trimmed accordingly. The Electric Company has trimmed some trees and branches over recent years to prevent any contact with overhead power cables.

2

>
> I am willing to cooperate fully, and enter in to any discussion regarding these trees in the near future, but I strongly object to any TREE PRESERVATION ORDER being placed on my TREES ON MY LAND. The Trees and bushes from time to time over the years require cutting back, and I have carried out this, or had this done by reputable tree surgeons, and will require the same in the future.

>
> Yours Sincerely

>
>
> Christopher Burke

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>
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