

PLANNING COMMITTEE – 20 November 2012

Re: THE BOROUGH OF HINCKLEY AND BOSWORTH (LAND AT THE DOCTORS SURGEY, BACK LANE, MARKET BOSWORTH) TREE PRESERVATION ORDER 2012

Wards Affected: Market Bosworth

1. PURPOSE OF REPORT

For members to consider the confirmation of the above Order

2. RECOMMENDATION

That the Order be confirmed as made, without variation.

3. BACKGROUND TO THE REPORT

The Borough Council has the power to make Tree Preservation Orders Under Section 198 and 201 of the Town and Country Planning Act 1990. The above Order was made under delegated powers on 21 of June 2012. A copy of the order is attached to this report. The effect of the Order is to protect the tree set out in the attached schedule and plan, indicated as T1 – Black Alder (*Alnus Glutinosa*).

The Order came into effect when it was made and remains in force until approved, withdrawn or for a maximum period of 6 months from making. The reasons for making the Order are that the tree contributes to the visual amenity of the area as the species of Alder is an unusual variety, the tree helps reduce the harsh appearance of the building and the tree stands in good health with an appropriate remaining life span. A Tempo Assessment (Tree Evaluation Method for Tree Preservations Orders) has been used to evaluate this tree and the outcome has identified that this tree is “TPO Defensible” (TPO Defensible is a status which means that the tree is worthy of protection with a Tree Preservation Order). A copy of the completed tempo assessment is attached to this report.

The Council has received nine letters of objections in respect of this Tree Preservation Order. Some issues raised within the letters referred to parking provision at the Surgery. Under a recent application the tree was proposed to be removed to provide further off street parking at the site. During the course of the application, owing to the nature of the tree, the application was amended to a scheme which retained the tree and provided less parking. It is important to note that the matter of parking provision is not an issue to be considered for the confirmation of this Tree Preservation Order.

In addition to concerns regarding parking at the surgery the following points were also raised within the letters of objection received:

- a) It is not an endangered tree.
- b) It is covered by Ivy which is a parasite.
- c) The condition of the tree is appalling.
- d) The tree should be assessed by reference to its size, form, potential as an amenity and that a reasonable degree of public benefit would accrue.
- e) That the tree is of low quality – Category C in terms of Trees and Development and should not be a constraint on development with reference to Appendix 1 Table BS5837.

In response to each point of objection, the Council's Tree Officer submits the following comments in support of the recommendation to confirm the Order:-

- a) A tree does not have to be an endangered species in order to merit protection by TPO.
- b) Ivy is not a parasite. It only uses a tree for support and can be removed without damage being caused. In this instance the Ivy should be removed from the tree.
- c) The applicant's own arboricultural assessment describes the tree as "of an age and condition as to make a reasonable contribution to the public visual amenity of the locality for at least another 10 to 20 years". No pests, diseases or disorders have been identified.
- d) A TEMPO assessment (Tree Evaluation Method for Tree Preservation Orders) takes these aspects into account. A TEMPO assessment scores 13 -TPO Defensible.
- e) This refers to an out of date 2005 British Standard. The current standard - BS5837:2012 "Trees in relation to design, demolition and construction" makes no reference to Category C trees in this way.

The Order is already in effect and will be effective until 21 November 2012. If the TPO is not confirmed on or before this date then the protection will lapse. If it is confirmed then the tree will be protected indefinitely. This means that anyone wishing to carry out any works to the tree will have to make an application to the Council following the statutory procedure. This includes the landowner who remains responsible for the maintenance of the tree. Anyone can, however, apply for consent from the Council to do works to the tree, in particular if they wish to carry out works on trees which overlook their own land. The only time consent of the Council is not required is if a particular tree within a TPO is dead, or dangerous, but the person proposing the works must first show that the tree is in fact dead, or dangerous. In addition, the Council would require 5 days notice prior to any works being done under this exemption.

Owing to the prominence of the tree, its healthy condition and the amenity value it brings to the area, all as outlined above, it is recommended that the Order be confirmed.

4. FINANCIAL IMPLICATIONS [PE]

None arising directly from this report.

5. LEGAL IMPLICATIONS [EP]

Contained within the body of the report.

6. CORPORATE PLAN IMPLICATIONS

None

7. CONSULTATION

The relevant statutory consultees have been consulted. Those who responded are referred to in the body of the report.

8. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
If the Order is not confirmed the tree may potentially be cut down or damaged.	Protect the tree by confirming the Tree Preservation Order.	Simon Wood

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

No data which has been used to identify land owners associated with the Tree is disclosed, or shall be disclosed any point during this procedure. There will be no direct impact upon vulnerable groups as a

result of this confirmation and any subsequent application which is to made to carry works to this tree will be subject to the Authority's standard procedure's in respect of aiding individuals who are disabled or have learning difficulties.

The protection of this tree will retain the existing micro climates which use this tree and the surrounding area and the environmental consequence of this Tree Preservation Order can only be considered as positive.

Where there is a proposed new service, change of service, or a new or reviewed policy, an Equality Impact Assessment is required and has been undertaken and can be viewed here: non required

10. CORPORATE IMPLICATIONS

By submitting this report, the report author has taken the following into account:

- Community Safety implications	None relating to this report
- Environmental implications	None relating to this report
- ICT implications	None relating to this report
- Asset Management implications	None relating to this report
- Human Resources implications	None relating to this report
- Voluntary Sector	None relating to this report

Background papers:

The Borough Council of Hinckley and Bosworth (Land at The Doctors Surgery, Back Lane, Market Bosworth) Tree Preservation Order 2012.

The nine letters of objection

Tree Officers TEMPO assessment

Tree Officers response to objection letters

Contact Officer: Nick Cox Planning Technician ext. 5659