

Alfred Major Recreation Ground (south side), Cookham Rise, Maidenhead, Berkshire

1. Background:

Tree Preservation Order (TPO) 30 of 2008 was created in May 2008 and relates to several trees situated adjacent to the southern boundary of the Alfred Major Recreation Ground, with their crowns overhanging the gardens of properties to the south. The TPO was initiated following requests from occupiers of these properties who wished to prune back the branches of the trees. Until now these requests have been refused by Cookham Parish Council, the owners of the trees, however under Common Law the occupiers have the right to prune overhanging branches back to their boundary lines. In the opinion of the Council's Arboricultural Officer this would result in severely asymmetrical, deformed trees with a significantly reduced amenity and therefore it was considered expedient to create a TPO to ensure the long-term protection of the trees.

The Order originally related to eight individual trees and two groups of Oak trees. It is proposed to modify the Order on confirmation as per the specification below:

- T1 Cherry (*Prunus avium*). Located on the south boundary adjacent to rear of 10 Penling Close.
- T2 Sycamore (*Acer pseudoplatanus*). Located on the south boundary adjacent to side boundary of 21 Hillcrest Avenue.
- T4 Oak (*Quercus robur*). Located on the south boundary adjacent to side of 16 Hillcrest Avenue.
- T5 Oak (*Quercus robur*). Located on the south boundary adjacent to rear of 14 Lyndhurst Avenue.
- T6 Oak (*Quercus robur*). Located on the south boundary adjacent to rear of 12 Lyndhurst Avenue.
- T7 Oak (*Quercus robur*). Located on the south boundary adjacent to rear of 8 Lyndhurst Avenue.
- T8 Horse Chestnut (*Aesculus hippocastanum*). Located on the south boundary, approx 6m from the rear of 8 and 6 Lyndhurst Avenue.
- G1 Oak x 4 (*Quercus robur* x 4). Located on the south boundary adjacent to rear of 4 Lyndhurst Avenue.
- G2 Oak x 2 (*Quercus robur* x 2). Located on the south boundary adjacent to rear of 20 and 21 Groves Way.

2. Objections:

One letter of objection accompanied by 3 photographs was received in respect of the TPO from Mr P L Partridge, the occupier of 21 Hillcrest Avenue. His objections, which are summarised below, relate to the Sycamore (T2) and the Common Ash (T3), as identified on the original TPO Schedule, which are situated adjacent to the northern, side boundary of his garden.

- Both the Sycamore and the Ash overhang the boundary of 21 Hillcrest Avenue by an estimated 4m, photograph 1 shows 40% of the tree overhanging.
- The Ash T3 has a split bole, is very shallow rooted and only 320mm from the boundary fence, on the left hand side of the concrete path to the football club. If the Ash is not severely lopped damage may be caused to the property or to the BT telephone line.
- There is the possibility of damage from future root growth to the water and electricity services which it is believed run from the end of Hillcrest Avenue to the Football Club between the fence and the concrete path.
- Who will be responsible for any damage caused?

No objections to the TPO have been received from Cookham Parish Council, the owners of the trees.

3. Responses to the objection and justification for the Order:

Under the Town and Country Planning Act (1990) local planning authorities may make a TPO if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area. The Act does not define amenity, nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, a TPO should be used to protect selected trees and woodlands if their removal would have a significant impact upon the local environment and its enjoyment by the public. Local planning authorities should be able to show that a reasonable degree of public benefit would accrue before the TPO is made or confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath. Trees may be worthy of preservation, amongst other reasons, for their intrinsic beauty or for their contribution to the landscape. In this case the trees that are subject of the TPO are in a prominent location and can be viewed from public vantage points in Lyndhurst Avenue and Bridge Avenue, as well as from all parts of the Recreation Ground. The trees are a feature of the locality, contributing significantly to the amenity, aesthetic and landscape value of the area.

The local planning authority may create a TPO when it is believed there is a risk of a tree being cut down or pruned in ways that would have a significant impact on the amenity of the area. This TPO was made in response to requests received by Cookham Parish Council, who own the Recreation Ground, from occupiers of properties adjoining the southern boundary wishing to prune back the branches of the trees. Following an inspection of the trees by one of the Council's Arboricultural Officers on 11th February 2008, it was considered that this work would result in severely asymmetrical, deformed trees with a significantly reduced amenity value. It may also reduce the trees life expectancy through the creation of large wounds that will result in the ingress of decay-causing organisms. As under Common Law the occupiers of the properties have the right to prune over hanging branches back to the boundary line, it was considered expedient to create a TPO to protect the trees from inappropriate works.

In order to address the concerns raised by Mr Partridge, a further site visit was made by one of the Council's Arboricultural Officers to inspect the Sycamore (T2) and the Common Ash (T3). With respect to the Sycamore, at the time of the site visit the tree appeared to be in a relatively sound and healthy condition with no outward signs of any significant defects or decay. The tree is publicly visible and contributes significantly to the landscape value of the local area. It is acknowledged that the canopy overhangs the boundary of 21 Hillcrest Avenue, however it is considered that there is currently good clearance to the BT telephone wires. However, if problems should be experienced in the future the Council's tree section is able to provide free arboricultural advice to residents who own or occupy land adjoining the site of protected trees where the trees may overhang boundary lines as well as to the owners of the trees. Anyone can apply to undertake works to a protected tree, however any consent granted does not imply consent would be forthcoming from the owner of the tree. Nonetheless, a neighbour may prune overhanging branches back to the boundary line, but no further, provided the necessary consent has been obtained from the local planning authority. There is no fee levied to submit an application for works to protected trees or a limit on applications made. The local planning authority would not unreasonably withhold consent for tree works which accord with good arboricultural practice, but should consent be refused any applicant has the right of appeal against the decision.

With regard to the Ash tree identified as T3 in the original TPO Schedule, on closer inspection inherent weaknesses were noted within the stem of this tree. While the tree is not in a dangerous condition, because these weaknesses are apparent it is considered inappropriate for the continued inclusion of the Ash (T3) within TPO 30 of 2008. Therefore it

is the intention of the Council to modify the TPO at the confirmation stage to exclude this tree. Mr Partridge will not therefore require consent from the Council to carry out works to this tree and has the right to cut branches back to his boundary line. Any works in excess of this would require the consent of Cookham Parish Council, as owner of the tree.

In respect of Mr Partridge's concerns over potential damage to the services to the football club, tree roots may only cause damage to utility services if there is already a defect present within the service runs. If a defect is present and the area is conducive for root growth, such as in a moist drain, roots will take advantage of this but they would not have initiated the damage. Damage of any kind to water pipes, in which the water is under a constant pressure and electricity cables, tend to be extremely rare. No evidence has been submitted to show the trees are likely to cause damage to the services.

As with any tree, ultimately the responsibility for maintenance rests with the tree owner, in this case Cookham Parish Council who has a duty of care to ensure that their tree or trees are not in such a condition as to pose an unacceptable risk to other persons or their property. As such any tree whether subject to a TPO or not, should be inspected periodically by a qualified Arboriculturalist for health and safety. The Council is not liable for matters relating to the normal management of a protected tree, but as already stated the Council's Tree Section is able to offer free arboricultural advice to owners of protected trees and to occupiers of adjoining land. Compensation may only be paid as a result of refusal of consent for works or as a result of consent for works being granted subject to conditions. Compensation is not payable simply because a TPO has been made.

4. Sustainable Development Implications:

In terms of the sustainable development policy the recommendation contained in the report will have the following significant beneficial sustainable development implications: A positive impact on the natural environment by retaining the tree stock.

RECOMMENDATION that Tree Preservation Order 30 of 2008 is confirmed with the following modification:

- T1 Cherry (*Prunus avium*). Located on the south boundary adjacent to rear of 10 Penling Close.
- T2 Sycamore (*Acer pseudoplatanus*). Located on the south boundary adjacent to side boundary of 21 Hillcrest Avenue.
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