

Ward: Heathfield

PLANNING COMMITTEE

Lead Officer: Head of Planning Control

16TH NOVEMBER 2005

TREE PRESERVATION ORDER No. 15,2006
Land at Viney Bank/Yew Tree Way

1. SUMMARY

- 1.1 This report considers objections that have been made to the making of a Tree Preservation Order. The objections must be taken into account by the Committee before deciding whether to confirm the Order.

2. RECOMMENDATIONS

- 2.1 It is recommended that no Local Inquiry be held and that the Order be confirmed with the modifications detailed in paragraph 5.2.
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3. BACKGROUND

(a) Legislative background

- 3.1 Section 198 of the Town and Country Planning Act 1990 empowers a Local Planning Authority to protect trees in the interests of amenity, by making Tree Preservation Orders. These Orders bring under the control of the Authority the felling, topping, lopping, uprooting and willful damage of specified trees and woodlands. Orders may be made in respect of individual trees and woodlands, but cannot be applied to bushes, shrubs or to hedges as such.
- 3.2 The Government booklet Tree Preservation Orders, a Guide to the Law and Good Practice provides advice on the making of Tree Preservation Orders. In general, Orders should be made to protect selected trees and woodland if their removal would have a significant impact on the environment and its enjoyment by the public. Trees may be worthy of preservation for their intrinsic beauty, for their contribution to the landscape, or because they screen an eyesore or future development. The value of trees may be enhanced by their scarcity. Other facts, such as their importance as a wildlife habitat may also be taken into account although on their own these may not be sufficient to warrant an Order.
- 3.3 The risk of felling need not be imminent before an Order is made and trees may be regarded as at risk generally from development pressure. Since changes in property ownership and intentions to fell trees are not advised in advance, the preservation of selected trees by precautionary Orders may be considered expedient. It is made clear that it would be quite inappropriate to make a blanket Order with a view to maintaining control over an extensive area.

3.4 The procedures for the making and confirming of Tree Preservation Orders are set out in the Town and Country Planning (Trees) Regulations 1999.

(b) Site and Surrounding Area

3.5 The site that is the subject of this Tree Preservation Order is a residential estate with a small number of amenity trees.

3.6 (C) Relevant Planning History

TPO 15,2006: At a delegated business meeting on 3rd July 2006 a Tree Preservation Order was made, to come into immediate effect, to protect 4 Sycamore and 2 Lime trees.

4. PLANNING POLICIES

4.1 The relevant policies of the Croydon Replacement Unitary Development Plan (The Croydon Plan) are SP8, NC4.

5. THE ORDER

5.1 Tree Preservation Order No. 15, 2006 included a direction applying Section 201 of the Town and Country Planning Act 1990 which allowed the Order to come into immediate effect on 3rd July 2006.

5.2 The Order protects six trees as described in Schedule 1 of the Tree Preservation Order. However, trees T1 and T2 have been incorrectly specified in the schedule. Should the committee choose to confirm the order, the TPO will be modified to show T1 Field Maple and T2 Field Maple.

5.3 The Order is effective for a period of 6 months. If the Order is not confirmed within that period, the provisional protection afforded by Section 201 ceases.

6. OBJECTIONS TO THE ORDER

6.1 The Council has received three letters of objection to the serving of Tree Preservation Order 15, 2006 from residents of Viney Bank.

6.2 All three objections state that the management committee has neglected the amenity trees in this part of Forestdale for a large number of years and that the trees, as they have matured, have restricted the light to properties in Viney Bank.

6.3 It is also stated that if the order is granted, it will encourage the management committee to allow the trees to become overgrown again and that the order gives people who don't live in the area the power to decide how the occupants of Viney Bank live.

6.4 Two of the objection letters received relate mostly to trees in Viney Bank that are already subject to a confirmed Tree Preservation Order. (TPO

10,1999: Amenity land adjacent to 17-28 Viney Bank). The issues that maybe of concern in regard to these trees are not the subject of this report. The objections relevant to this report relate to trees on Yew Tree Way (T1-T4).

7. CONSIDERATIONS

- 7.1 The Committee should take into account the advice set out in paragraph 3.2 and 3.3 of this report and have in mind that the essential purpose of a Tree Preservation Order is to protect public amenity.

It is necessary for the Committee to consider:-

- (a) Whether to hold a Local Inquiry; and
- (b) Whether the Order should be confirmed.

- 7.2 There is no prescribed format for holding a Local Inquiry. A Local Inquiry would not necessarily be led by an Inspector appointed by the Secretary of State but would follow procedures decided by the Local Planning Authority. It has not been the normal practice of Croydon Council to hold Local Inquiries in dealing with objections to a Tree Preservation Order as the procedures adopted are open and provide any person objecting to a TPO with an opportunity to submit written objections and to speak to the Committee in support of the objection. Members of the Committee have the benefit of photographs of the subject trees when considering the written and oral objections. In view of these procedures, a Local Inquiry would afford only limited further opportunities for objections to be heard and the merits of the TPO to be considered.

If it is decided that a Local Inquiry should be held then the report of that Inquiry must be taken into consideration before a decision is made.

- 7.3 The trees provide a good level of visual amenity both as individual specimens along Yew Tree Way and as components of the sylvan character of this part of Forestdale, which is a mostly built up area.
- 7.4 The tree preservation order was made following notification from the management committee that areas of amenity land were being sold to residents who wished to extend their gardens. As a result of this sale of land, a number of prominent trees were removed. In order to conserve the more prominent trees in Viney Bank and to prevent their removal without the consent of the Council, the Local Authority considered it prudent to serve a tree preservation order.
- 7.5 In response to the objections raised, the Local Authority can appreciate the problems of living in close proximity to preserved trees. However, it is considered that the trees to the rear of properties 21-26 Viney Bank (T1-T4) are at a sufficient distance (approx 11m) to not have a direct impact on the adjacent dwellings. Whilst the Council appreciates that the trees are close to the rear boundaries of the properties, the work that was carried out to the trees before they became the subject of this TPO has reduced the levels of shade experienced by the occupants. The tree preservation order will not prevent the trees being pruned to a similar extent in the future. However, a formal application must be made to the

Local Authority prior to any pruning works being carried out. Provided that the level of works is reasonable, the Council will not refuse permission.

- 7.6 With regard to people outside of the area deciding how the occupants of Viney Bank live, the Local Authority is obliged to make a tree preservation order if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area. As stated above, provided an application to prune the trees is reasonable, the Local Authority will not refuse permission for the works to be carried out.
- 7.7 No objections have been received in respect of trees T5-T6.
- 7.7 It is recommended that Tree Preservation Order No. 15, 2006 be confirmed with the modifications detailed in paragraph 5.2.

8. ENVIRONMENTAL CONSIDERATIONS

- 8.1 The felling of the 2 Sycamore, 2 Field Maple and 2 Lime trees would have a detrimental impact on the environment and its enjoyment by the public by virtue of the loss of an important visual amenity.

9. EQUALITIES CONSIDERATIONS

- 9.1 There are no equalities opportunity implications arising from this report.

Case Officer: S. Kaye

Background Documents: 3 letters of objection.
Tree Preservation Order No.15, 2006.

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