

COMMITTEE: Planning Committee

DATE: 30 August 2016

SUBJECT: Tree Preservation Order - Land at Boyne House 55
Backwater Road, Eastbourne No. 177 (2016)

Report: Ian Fitzpatrick (Director of Service Delivery)

Ward(s) Meads

Purpose This report seeks confirmation of a Tree Preservation Order.

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Recommendation: That The Eastbourne Borough Council Tree Preservation Order (Land at Boyne House 55 Blackwater Road, Eastbourne, East Sussex) No.177 (2016) be confirmed without modification as follows.

1. Introduction

1.1 On 31st March 2016 the Senior Specialist Adviser (Planning) exercised his delegated powers and authorised the making of a tree preservation order in respect of a tree on the above land. The tree is a *Fagus sylvatica* 'Purpurea' (Purple Beech)

The Senior Specialist Adviser (Planning) took this action because the tree makes a significant contribution to the visual amenities of the area, and its loss would be detrimental to those amenities.

The Order was made on 29th April 2016.

1.2 The Order will continue in force until the expiration of a period of six months from the making of the Order or the date on which the Order is confirmed, whichever first occurs.

2. Confirmation Procedure

The Committee must now decide whether to confirm the Order. The Committee may:

- confirm an Order without modification or subject to such modification as it considers it expedient; or

- decline to confirm the Order, in which case it lapses.

Before making a decision the Committee must take into account any objections or representations made within the prescribed period.

3. Consultations

- 3.1 Copies of the Order and statutory notice have been served on the owners and occupiers of the land and adjoining land.
- 3.2 The following is a summary of the representations and objections received together with the response of officers.

Representation/Objection

From the owner of Flat 1 Boyne House 55 Blackwater Road who has the following objections:

- The damage to an adjoining wall which he owns has been caused by the tree and the tree is also subject to an unresolved dispute, and further damage to the wall appears inevitable. An engineering assessment has been commissioned and provides evidence on the extent of the structural damage and its cause, with the conclusion of the report indicating that the wall is at risk of collapse and beyond repair.
- The map in the order is not correct as it doesn't show the garage forecourt structure.
- The justification for the order rests on qualitative judgement of the significant contribution that the Beech tree makes to the visual amenity of the area, and the assertion that its loss would be detrimental to these in the absence of any other engineering and planning considerations, and that there is an abundance of other established trees in the area which would mitigate detriment in local visual amenity, and compensatory planting could be provided.
- Risk to personal safety and damage to property with regards the trees canopy, leaf fall, falling branches and bird droppings.

Officers Response

The Specialist Advisor (Arboriculture) assessed the tree using the TEMPO (Tree Evaluation Method for Preservation Orders) scoring system, which is a method tested in the courts to ascertain whether trees are suitable for protection by a Tree Preservation Order. The tree is entirely visible from a public place, and makes a significant contribution to the visual amenity of the area.

- The damage to the wall is apparent and is indicated in the objection as "at risk of failure and beyond repair"; if the wall requires removal due to its risk of failure it offers an opportunity for a permanent engineering solution to be found which allows longevity for both the

- wall and the tree, without the need for felling.
- The purpose of the map is to ensure it is clear which tree is to be protected. The map provided as part of TPO 177 Boyne House 55 Blackwater Road, Eastbourne clearly identifies which tree is to be protected and therefore does not require changing.
 - The loss of this tree cannot be mitigated by the fact that other trees are in the vicinity. The TEMPO (Tree Evaluation Method for Preservation Orders) scoring system has been used, which is a method tested in the courts to ascertain whether trees are suitable for protection by a Tree Preservation Order and the score was 18 which indicates the tree merits a Tree Preservation Order. All engineering and planning considerations can still be taken into account if submitted with an application to fell the tree.
 - No arboricultural report has to date been submitted indicating the tree poses a danger, and any report would be taken into consideration when submitted with a planning application to undertake tree works. Falling leaves and bird detritus is not considered a legal nuisance and is not an appropriate reason for the removal of a protected tree.

4. Resource Implications

4.1 Financial

There are none.

4.2 Staffing

There are none.

5. Environmental Implications

The confirmation of the Order will ensure the protection of the tree, which makes a significant contribution to the visual amenity of the area.

6. Legal Implications

The Council has the power to make and confirm a tree preservation order under S.198 of the Town and County Planning Act 1990. The procedure to be followed is contained in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

7. Human Rights

Whilst the owners have the right to the peaceful enjoyment of their property, the Council have the right to make the Order to preserve and protect the visual amenity to which the trees make a significant contribution.

8. Conclusion and Recommendation

- 8.1 The tree makes make a significant contribution to the visual amenity of the area. It is therefore recommend that the Tree Preservation Order be confirmed without modification.

IAN FITZPATRICK
Director of Service Delivery

Background Papers:

The Background Papers used in compiling this report can be found on files:
049038EBC-DF TPO 177