

MAIN CASE

Proposal: Confirmation of Tree Preservation Order E/04/20

Location: Land Rear of 30 to 40 Garden Close, Sutton.

Applicant: N/A

Agent: N/A

Reference No: TPO/E/04/20

Case Officer: Kevin Drane, Trees Officer

Parish: Sutton

Ward: Sutton

Ward Councillors: Councillor Lorna Dupre
Councillor Mark Inskip

[V165]

1.0 THE ISSUE

- 1.1 To confirm a Tree Preservation Order (TPO) for two individual trees and three groups containing a total of 57 trees on land Rear of 30 to 40 Garden Close, Sutton. This matter is being referred to Committee due to objections received within the 28 days consultation period, which ended on 15th January 2021, and for the requirement to confirm the TPO within six months to ensure the trees are protected for public amenity.

2.0 RECOMMENDATIONS

- 2.1 It is recommended that:

The TPO is confirmed, for the following reasons: The 59 trees are prominent specimens within the site, and visually contribute to the amenity of the local landscape in this part of Sutton.

3.0 COSTS

If a TPO is made and confirmed, then subsequent applications made for tree works would carry with them an opportunity to claim compensation if, as a result of the Council's decision, the applicant suffers any loss or damage within 12 months of that decision being made.

4.0 BACKGROUND

- 4.1 The Order was made after requests by local residents who nominated the trees for preservation because the trees stood on the proposed development site, subject of planning applications 17/01445/OUM and 18/01053/OUM and refused applications 20/01169/RMM and 20/00177/RMM at Land Rear of Garden Close Sutton.
- 4.2 The proposed development layouts have so far required the removal of several of the trees, which were not protected at that time of the TPO nomination request.
- 4.3 The TPO was served under Section 201 of the Town & Country Planning Act 1990, on 15th December 2020 because:
- Trees on the site were considered at risk of being removed before the planning application 20/01169/RMM was refused on 4th January 2020.
 - Attempts to reach an agreement with the developer for retention of all or some of the trees was unsuccessful most notably group G3.
 - Serving the TPO allows time for debate on the future of the trees on this proposed development site, and time for the Planning Officers to weigh up all the planning constraints relevant to future applications before a final decision is made.
 - Page 3 of the revised Arboricultural Impact Assessment dated 12th November 2020 as part of application 20/01169/RMM stated that ECDC have the means and opportunity to utilise the TPO legislation to ensure the continued long-term protection of the trees. (appendix 3)
 - The trees were assessed to have amenity value, as they make a visual contribution to the local landscape in this part of Sutton.
- 4.4 Two objections to the serving of the TPO were received in writing from the owner's Solicitor and Arboricultural consultant on their behalf during the statutory 28 day consultation period. The letters and documents relating to the objections are in Appendix 1. The details of the objections were:
- Objection to the TPO being confirmed in respect to there being an existing outline planning permission for the site and the enforcement of obligations that already exist and the use of planning conditions in any reserved matters applications.
 - The serving of a TPO at this stage prejudices the consent given under appeal ADP/V0510/W/18/3195976 in relation to 17/01445/OUM allowed by appeal.
 - The successful appeals Arboricultural assessment identified a near identical set of trees to be removed. A number of which are included within this TPO.
 - The serving of the TPO at this stage is in order to prevent or inhibit development when it should only be used to protect trees that are intrinsically worthy of protection.
 - The TPO should only be served on trees not indicated for removal in the approved outline application.

4.5 Support for the TPO was received following the receipt of the objections these were from the Parish Council and 28 members of the public from Sutton and copies of some of the responses received are attached at Appendix 2. Below are some of the comments received:

- Hope that where at all possible, as much as possible will be done to protect our precious environment and wildlife.
- Nice to see all the trees in that field and it would be a great shame if they were removed. Surely the developer can use the hedgerows and trees to enhance the planned site.
- Trees look good and benefit the environment, and my wife and I in more ways than I can list. The main reason the trees should be protected is evident to us every day. Through our windows.
- Can't see the merit in ripping out established groups of trees and new, young, much smaller trees being planted on the site, trees which incidentally may well fail to flourish, Surely the development can be planned to accommodate these areas of established tree groups.
- Completely unacceptable for these trees and hedgerows to be removed in any circumstances. We can see the canopy of the trees from the front windows of our house and to lose them would change the outlook forever. Understand the need for housing developments but feel they should be built alongside nature and to preserve the countryside and the existing ecosystem.
- Sutton Conservation Society wholeheartedly support the Tree Preservation Order.
- Sutton Parish Council is in support of the TPO consent on this land for the following reasons:
 1. It is a woodland wildlife environment.
 2. A matter of local importance and worthy of protection (not just for neighbouring residents)
 3. Drainage problem in the area, and removal of established trees may increase problems.
 4. Sutton NP Policy NP2 – Protecting and Maintaining features of landscape and biodiversity value, must be considered when consideration is given to confirming the order.

4.6 Given the comments received, including the objections, and also the public request for the serving of the TPO, it was considered appropriate for the Planning Committee Members to consider all the comments received and reach a democratic decision on the future protection of the 59 TPO trees.

5.0 **CONCLUSIONS**

5.1 Whilst determining if the 59 trees are of sufficient amenity value or not is to some extent subjective, the Trees Officer remains of the opinion that the trees make a visual contribution to the local landscape and character of the area that will increase upon development of the site.

- 5.2 The trees were assessed for TPO suitability on their amenity value, this being the only requirement needed in evaluating trees for the making of a new TPO. Trees T1, G2 and G3 were given a category B rating by the developers own Arboricultural consultant. The completed TPO Assessment Sheet document for TPO E/04/20 is attached at Appendix 3.
- 5.3 It was appropriate to serve the TPO to protect the 59 trees from the risk of being removed before the planning application was determined, and ensure an opportunity to debate the future of the 59 trees.
- 5.4 The ongoing concerns in relation to the removal of high-quality trees and limited space provided by the proposed layout of the development, to allow the long-term retention of any retained trees not being addressed during the course of recent reserved matters application, lead to the officer believing that the serving of a TPO was the only option remaining to ensure the trees are considered. It was also suggested by the developers Arboricultural consultant stated in revision A:12/11/20 of their arboricultural impact assessment that ECDC have the means and opportunity to utilise the TPO legislation to ensure the continued long term protection of the trees.
- 5.5 The serving of the TPO has not been served to prevent or inhibit the development of the site. The serving of the TPO also does not prejudice the 2017 permission, which was for 'up to 53' dwellings and did not approve the matters of appearance, landscaping, layout or scale and therefore it was only the principle of development and the access to the site that were approved as part of that permission.
- 5.6 If the decision by Planning Committee is to confirm the TPO, this will not prevent a reserved matters application relating to 17/01445/OUM from being permitted, which if allowed could include the removal of some of the TPO trees to achieve a suitable site layout. It will ensure suitable consideration of the retained trees future requirements to allow their long-term retention and ensure replacement planting is undertaken to mitigate any removed trees.
- 5.7 If the Planning Committee decide not to confirm the TPO, the TPO will lapse and the owners can then remove all the trees without notification or permission from the Council.

APPENDIX 1 – Letters of objection to the TPO on behalf of the owners.

APPENDIX 2 – Some of the emails supporting the TPO, received following the owners objections.

APPENDIX 3 – Documents:

- Copy of the TPO E/04/20 document and Formal Notice documents, signed by the Planning Manager.
- ECDC TPO Assessment Sheet

- Copy of Arboricultural Impact Assessment dated 12th November 2020
- Copy of the tree survey dated 21st January 2020

Background Documents

Town & Country Planning Act 1990
 Town & Country Planning (Tree
 Preservation)(England) Regulations 2012
 National Planning Policy Guidance from 6th
 March 2014

<http://planningguidance.planningportal.gov.uk/blog/guidance/tree-preservation-orders/how-are-offences-against-a-tree-preservation-order-enforced-including-tree-replacement/>

East Cambridgeshire District Local Plan 2015
 East Cambridgeshire District Council Natural Environment – Supplementary Planning
 Document (SPD) 24 September 2020
 Planning Application 17/01445/OUM

Location(s)

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