

COMMITTEE REPORT

East Area Committee

7th September 2011

Order Name: Oxford City Council - Cordrey Green (No.2) Tree Preservation Order, 2011

Decision Due by: 18th September 2011

Site Address: 6 Cordrey Green, Iffley, Oxford

Ward: Rose Hill And Iffley Ward

Recommendation:

1. To confirm without modification, the Oxford City Council - Cordrey Green (No.2) Tree Preservation Order, 2011

Background:

The Oxford City Council - Cordrey Green (No.2) Tree Preservation Order, 2011 was made and served on 18th March 2011 to protect a false acacia tree, T.1, which stands in the garden of 6 Cordrey Green, Iffley (map at Appendix 1).

On 24th January 2011 the owner of 6 Cordrey Green gave the Council notice of his intent to fell a false acacia tree from the garden that property, which stands within the Iffley Conservation Area. The reasons given for the proposed work were that the tree had "...become out-sized for its location and as a consequence now poses a risk to the house. Potential damage may be caused by tree fall, and the roots pose a potential risk of movement to the house foundations. The tree is also overshadowing neighbouring gardens". No significant evidence was provided in support of the notification. The owner intended to plant "an appropriately sized replacement tree" at an adjacent location.

On 4th March 2011 the Council made Oxford City Council - Cordrey Green (No.1) Tree Preservation Order, 2011. However, the Formal Notice which is served together with the order was incorrectly dated and so the Oxford City Council - Cordrey Green (No.2) Tree Preservation Order, 2011 was made and served on 18th March 2011. In general, the TPO makes it an offence to undertake work to the tree without the written consent of the Council.

The order is provisional for 6 months in the first instance and needs to be confirmed by Committee to become permanent. The Council must take account of the representations it received in response to making the order when it decides if the TPO should be confirmed or not, with or without modification.

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Reasons for making the order:

To protect in the interests of public amenity a false acacia tree that is prominent in public views in Church Way and which makes a valuable contribution to the appearance and character of the Iffley Conservation Area.

Representations Received:

- 1 letter of objection from the occupier of 7 Cordrey Green; the tree is already 'protected' by its location in the Iffley Conservation Area and the Council can therefore already 'object' to proposed works. The TPO will severely limit the ability for work to be carried out to a tree which is now reaching excessive height and width. Containment pruning (of say 30%) is required in the interests of safety for users of the adjacent footpath and to reduce excessive shading of 7 Cordrey Green.
- 1 letter of support from the tenant of 6 Cordrey Green; the tree is important to village aesthetics because it makes a significant visual contribution to Iffley Village and helps create a long-term sustainable benefit to the treescape of the conservation area. It is nectar producing so it is important to honey bees and biodiversity. It does not cast dense shade and is unlikely to get much bigger. Nuisance caused by debris falling from the tree and shading over one garden does not justify removal.

Officers Assessment:

The false acacia is a medium sized tree, which is a prominent landscape feature in public views from Church Way. It appears to be in good physiological health. Its crown is supported on multiple co-dominant stems, which bifurcate from the trunk at about 1 metre above ground level, but the union between stems appears to be structurally sound.

Public views along Church Way are enhanced by the tree, which also softens the appearance of the relatively modern house behind in views from Church Way. Removal of this tree would have a significant harmful effect on amenity in the area and would damage the appearance of the Iffley Conservation Area. The proposed planting of another tree would not mitigate this harmful impact.

The reasons given in support of notification are not supported by evidence. The tree has moderate growth potential, but is reasonably well suited to its location. The risk of it breaking or falling appears to be low. The house is a relatively modern building and should have foundations which are adequate for soil conditions. The tree has small leaves and an open crown form so that the shade it casts is dappled and is unlikely to restrict reasonable use of surrounding gardens.

The objection to the TPO is based on a misunderstanding of the law which requires the Council to be given 6 weeks prior written notice of tree works in a conservation area. This is not an application and the Council can not grant or refuse consent for the proposed tree work, rather it must assess the impact of the proposed work on

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amenity in the area and decide whether or not it is expedient in the interests of amenity for a Tree Preservation Order (TPO) to be made. In reaching its decision the Council must pay particular attention to the impact on the appearance and character of the conservation area.

Once a TPO is made an application can be made for consent to carry out work at any time. The Council can grant TPO consent, with or without conditions, or refuse TPO consent. If TPO consent is refused the applicant has the right of appeal.

All applications for TPO are considered on their merits. In deciding whether or not to grant or refuse consent the Council must assess the impact of the proposed tree work on amenity in the area paying particular attention to the impact on the conservation area, and decide whether the reason(s) given for the proposed work provides a justification for any harm caused. Applications to undertake work because of concerns that trees might break or fall or because of damage to built structures must be accompanied by appropriate professional or technical evidence to be valid.

As it stands the tree is not considered to be out of scale with its surroundings so that it does not currently restrict reasonable enjoyment of surrounding adjacent buildings and gardens. There is no evidence that pruning is currently required in the interests of safety or that the tree might damage built structures as it grows. Given that the tree stands on the north side of the garden of 7 Cordrey Green, it is unlikely that pruning the crown of the tree, to reduce it by either 30% of its height or volume, would significantly reduce the shade cast over that garden. In any case, the Council can only respond to the applications for TPO consent it receives and as yet it has not received any application for the 'containment pruning' considered necessary by the occupier of 7 Cordrey Green.

The Council's Tree Officer considers that the TPO is justified in the interests of amenity and expedient given the notice of proposed felling.

Conclusion:

The false acacia tree referenced T.1 on the Oxford City Council - Cordrey Green (No.2) Tree Preservation Order, 2011 is important to visual amenity in public views along Church Way and makes a valuable contribution to the appearance and character of the Iffley Conservation Area.

It is expedient for the Council to use its powers to make a Tree Preservation Order to protect the tree because it is at risk of being felled. Felling is not justified at this time.

Having considered the representations received in response to the making of the order, the Council has decided to confirm Oxford City Council - Cordrey Green (No.2) Tree Preservation Order, 2011 without modification.

Human Rights Act 1998

Officers have considered the Human Rights Act 1998 in reaching a recommendation to confirm this Tree Preservation Order. Officers have considered the potential

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interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

Section 17 of the Crime and Disorder Act 1998

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to confirm the Tree Preservation Order officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

1. Oxford City Council - Cordrey Green (No.1) Tree Preservation Order, 2011
2. Oxford City Council - Cordrey Green (No.2) Tree Preservation Order, 2011

Contact Officer: Kevin Caldicott

Extension: 2149

Date: 25th August 2011

Appendix – Site Plan

11/00002/ORDER

6 Cordrey Green

East of The Oxford City Council
 by the order of the Council
 in the presence of
J. P. B. S.
 NOMINATED
 OFFICER



Legend

Scale: 1:1250



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Organisation	Oxford City Council
Department	City Development
Comments	
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