

EAST AREA PLANNING COMMITTEE

5th March 2014

Order Name: Oxford City Council - London Road (No.1) Tree Preservation Order, 2013

Decision Due by: 25th March 2013

Site Address: 392 London Road, Headington Oxford

Ward: Quarry And Risinghurst

Recommendation:

To confirm the Oxford City Council – London Road (No.1) Tree Preservation Order, 2013 with the First Schedule and Map modified to replace the area A.1 with 3 individual trees standing in the rear garden of 392 London Road, including; T.1, pine; T.2, sycamore; and, T.3, silver birch.

Background:

The Oxford City Council – London Road (No.1) Tree Preservation Order, 2013 was made on 25th September 2013. It protects all tree of whatever species standing within the area A.1 on the plan (Appendix 2) standing within the rear garden of 392 London Road.

The order was made in response to concerns being raised by a resident in the area about tree felling taking place in the garden of 392 London Road. At the time the order was made and served building work was taking place at the property, trees were not physically protected and were in the process of being felled.

The order is provisional order first instance and it must be confirmed to become permanent. The objections that have been made to the order must be considered in reaching a decision on whether the order should be confirmed or not.

On 12th November 2014 the Council's Tree Officer met with Mr Khatri, the owner of 392 London Road, and his representative, Mark Hemmings, to discuss objections to the order. However, Mr Khatri decided not to withdraw objections made on his behalf by Mr Porter by letter dated 12th October 2013. The matter is therefore now reported to committee for a decision.

Reasons for making order:

To protect in the interest of public amenity, trees that are a feature of public views from Downside End and The Larches.

Relevant Site History:

12/00009/ORDER; Oxford City Council – London Road (No.2) TPO, 2012. Expired.

12/02103/FUL; Erection of part single storey, part two storey, side and rear extensions,

including side roof extension. Erection of detached garage (amended plans). Approved, subject to conditions requiring approval of landscape details and tree protection measures prior to the start of works on site.

12/02103/CND; Details submitted in compliance with conditions 5 (tree protection) and 6 (landscaping) of planning permission 12/02103/FUL. Pending consideration.

13/03084/TPO; Fell 1 Pine tree identified in A1 of the OCC - London Road (No.1) Tree Preservation Order, 2013. APPROVED.

Representations Received:

Letter of objection from Mr G Porter, 4 Boulter Street (reproduced in full as Appendix 2).

Officers Assessment:

Site:

392 London Road is a large dwelling house with generously proportioned gardens. The protected trees stand in the rear garden of the property.

Trees and their amenity:

The trees to be included in the modified order include;

- T.1, a mature pine which has stands along the southeast boundary of the rear garden. The tree has a height of about 15 metres and a crown spread of about 10 metres, with branches on the south side overhanging the boundaries to 2 Downside End and 6 The Larches. Some low branches on the south side of the tree have been removed but the crown retains a well-proportioned and balanced appearance with a natural crown outline. It has some ivy encroaching into its crown which should ideally be removed;
- T.2., a mature sycamore tree which stands along the eastern boundary adjacent to Downside End. The tree is about 15 metres tall having a single stem to about 4 metres above ground level at which it bifurcates into 2. The tree has developed together with that of an adjacent sycamore tree which stands outside of the garden of 392 London Road. There is some dead and broken branches in the crown of the tree which should be removed. Swelling at the base of the main stem has been noted which should be investigated for evidence of internal decay;
- T.3., an early mature silver birch with a height of about 12 metres. It appears to be in good physiological health and sound structural condition. This tree will become more important visually if sycamore tree T.2 is removed at any time.

The trees are prominent in public views from the street in The Larches and Downside End and in these views help to soften the appearance of the houses around them, also providing a sense of enclosure within and separation between the Downside End and Larches housing estates. The variety of their crown forms and shapes, differing colour and texture of their bark and the range of colour, texture, size, shape and density of their foliage is visually attractive and adds seasonal interests to the area which enhances the appearance and character of the suburban environment in public views. It is probable that the trees provide

'stepping stone' habitats for birds and other wildlife moving through the built environment.

Also growing within the rear garden, are a small ivy infested pine tree and a poor quality hawthorn tree. TPO consent (application no. 13/03084/TPO) has been granted for the removal of the pine which has little public amenity value. The hawthorn tree also has little public amenity value and does not merit TPIO protection.

Expediency:

The trees were are in the process of being felled at the time the order was made and it is clear following the Tree Officer's meeting with the owner that they are at continued risk of being felled if it is not confirmed.

Issues:

Officer's response to concerns raised in Mr Porter;

1. Soil levels and compaction:

It appears that subsoil excavated during the construction of the foundations of the approved extensions has been spread across part of the rear garden and over the roots of the retained trees. The depth of this material varies, but appears to be about 100mm. Officers can find no evidence of significant soil compaction within the rooting area of the trees, but vehicles may have been used to spread the fill material. While the increase in soil level and any compaction of the rooting areas might prove to be harmful to the health of the trees in the future this is only likely to become manifest over a period of several years. The trees show no evidence of declining health at present that might be attributed to the soil level increases and compaction and their removal for that reason would be premature at this time. It would be prudent for the owner to carefully remove the material that has been spread over the root systems of the trees and monitor the health of the trees. If confirmed, the TPO allows the owner to make an application for TPO consent to fell any trees that show evidence of progressive declining health. Any such application will be considered on its merits at the time it is made. The TPO enables the Council to secure replacement planting by condition if TPO consent is granted for the removal of trees in the future.

2. Small pine tree:

TPO consent has been granted for the removal of this small, ivy tree which has little public amenity value;

3. Pine T.1 overhanging southeast boundary over 2 Downside End:

The crown of this tree overhangs the parking area at the front of 2 Downside Road and although the resident who uses that parking space has not formally objected to the order it is likely that pine needles, cones and other debris that will fall regularly from the tree are likely to be inconvenient and might even cause minor damage to a car parked underneath the tree from time to time. However, these concerns do not provide adequate justification for the harm to public visual amenity that would result from the removal of

the tree. The situation could however be improved by pruning the tree and if this is carried out sympathetically in accordance with good pruning practice this would not harm its appearance or amenity value; for example the lowest branch growing towards 2 Downside End could be removed. If the TPO is confirmed any application for TPO consent to prune overhanging branches will be considered on its merits at the time it is made.

4. Sycamore tree, crown condition and swelling on lower stem:

The tree has some dead and broken branches in its crown. This is not unusual for a tree of this species and age and in this case is not thought to be indicative of progressively declining health associated with damage to the roots. The branches can easily be removed and this does not require TPO consent. The tree does have a swelling at the base of its stem which could be symptomatic of internal decay. However, there is no evidence that the nature and extent of any decay, if it is present, is significant for the tree in structural terms and it is not known if there is an increased risk of the tree breaking or falling because of it. Furthermore, removal of this tree might leave the adjacent sycamore tree, which stands outside of the garden in the pavement, more exposed to the wind and vulnerable to damage. As things stand removal of the tree does not appear to be justified and would be premature, but it would be prudent for the owner to instruct a competent arboriculturalist to investigate the structural condition of the trunk at this point more closely, for example using internal decay investigation tools such as PICUS tomograph or resistograph. If the TPO is confirmed and more detailed investigation provides evidence of significant decay an application for TPO consent for remedial works can be made. Any such application will be considered on its merits at the time it is made. The TPO enables the Council to secure replacement planting by condition if TPO consent is granted for the removal of this tree in the future.

5. Root structure damage:

Officers can find no evidence that the trees have had their root structure damaged in the past. If the TPO is confirmed and more detailed investigation provides evidence of significant damage an application for TPO consent for remedial works can be made. Any such application will be considered on its merits at the time it is made.

6. Tree survey and Area TPO;

The order was made in response to concerns about trees in the progress of being felled and the Area designation was appropriate to that situation. However, the trees have now been surveyed and officers recommend that if the order is confirmed it should be modified to replace the area A.1 with 3 individual trees standing in the rear garden of 392 London Road, including; T.1, pine; T.2, sycamore; and, T.3, silver birch; refer to appendices 3 and 4 or this report for draft modified First Schedule and Map.

7. Timing of order:

It is unfortunate that a TPO was not made at the time planning permission no. 12/02013/FUL was granted. However, this permission was granted on condition that landscape details including proposed tree removals and also

details of tree protection measure be approved before the development started. In the event the tree removals that prompted the making of this order was undertaken in breach of those conditions. It is to be regretted that the provisional Oxford City Council – London Road (No.2) TPO, 2012 that had previously been made by the Council was not confirmed and had therefore expired. Internal procedures have been reviewed and tightened subsequently;

8. Landscaping:

Landscaping of the garden is required by condition of planning permission no.12/02013/CND. Details have yet to be approved. Any new trees that should be planted as part of the approved landscaping will be welcomed, particularly large growing species that are likely to benefit amenity in public views in the future as they mature. However, this does not provide a justification for removal of existing trees which already make a significant contribution to amenity in the area.

Conclusion:

Taking into account the objections that have been received to the order, officers are minded to recommend that the Oxford City Council – London Road (No.1) Tree Preservation Order, 2013 should be confirmed with modifications to the First Schedule and Map as shown at Appendices 4 and 5, to replace the area A.1 with 3 individual trees standing in the rear garden of 392 London Road, including; T.1, pine; T.2, sycamore; and, T.3, silver birch.

Human Rights Act 1998

Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to confirm this Tree Preservation Order with modifications. They consider that the interference with the human rights of the land owner under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

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 this Tree Preservation Order with modification, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

Background Papers:

Oxford City Council – London Road (No.1) Tree Preservation Order, 2013.

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Date: 22nd February 2014

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