
EAST AREA PLANNING COMMITTEE

4 March 2020

Order Name:	Oxford City Council – 11 Forest Road (No.1) Tree Preservation Order 2019
Decision due by	13 May 2020
Extension of time	n/a
Site address	11 Forest Road, Oxford – see Appendix 1 for site plan
Ward	Quarry And Risinghurst Ward
Tree officer	Chris Leyland
Reason at Committee	Two representations making objections to the TPO have been received

1. Recommendation:

1.1 East Area Planning Committee is recommended to:

confirm the Oxford City Council – 11 Forest Road (No.1) Tree Preservation Order 2019 with a modification to correct the position of the tree on the TPO map.

2. Background:

2.1 The Oxford City Council – 11 Forest Road (No.1) Tree Preservation Order 2019 was made on 13th November 2019. It is an ‘Individual’ designation Order, which specifically includes a common beech tree, shown in a black circle on the Tree Preservation Order (TPO) plan as T1 (Appendix 1).

2.2 The TPO was made following a customer (tree surgeon) enquiry as to whether there were any planning constraints to removing the subject tree. A Tree Officer visited the site to make an amenity assessment of the tree and decided that a TPO that took immediate effect should be made to prevent its imminent removal.

3. Reasons for making order:

3.1 To protect, in the interests of public visual amenity, a tree that makes a significant positive contribution to the landscape in views gained from Forest Road, Ridgeway Road and London Road.

4. Relevant Site History:

4.1 19/01064/FUL - Erection of two storey side extension and single storey front extension (amended description): Approved.

5. Representations Received:

Two representations making objections to the TPO have been received; from the property owners and residents of 11 Forest Road, and from the adjacent neighbours at 9 Forest Road. The objections were duly made and therefore the decision whether to confirm the Order and thereby make it permanent became a non-delegated decision to be made by the East Area Planning Committee.

6. Officers Assessment:

Site:

6.1 The site is a two-storey semi-detached dwelling on the north side of Forest Road. The property has previously been extended with a side dormer, as well as a single storey rear extension and rear box dormer. The site has a front drive and garage (Permission 19/01064/FUL has not been implemented at this time). There is a rear garden that is approximately 18.5m in length.

Tree and amenity:

6.2 The beech tree is a mature specimen (80-100 Yrs), approx. 18m tall with a broad spreading multi-stemmed form from the crown break at 2.5m above ground level. It has a crown spread of approx.9 metres. The tree is in good (normal) physiological condition. Based on tree condition, species longevity and its location, it is estimated to have a remaining useful contribution of 40+ years (BS.5837:2012 (classification)).

6.3 The tree is an attractive mature landscape feature in the street-scene. The tree makes a significant positive contribution to views from Forest Road, Ridgeway Road and London Road where it can be seen over the roofs of intervening houses. It has added prominence because of the relative absence of any other significant large trees in the local vicinity, which increases its amenity significance as something of a landmark.

7. Public Comments:

7.1 The two objections to the TPO have been summarised below.

- (1) The tree is not on highway land and is only seen in glimpsed views, and therefore it makes minimal contribution to the landscape.
- (2) The tree constantly sheds leaves or nut husks, which require clearing up, and which is a source of antagonism with neighbours who are also affected.
- (3) Concerns about safety affecting the use of the gardens. Branches are reported to have fallen from the tree allegedly damaging a shed and striking a neighbour.
- (4) Pigeons and squirrels use the tree and their faeces causes a hygiene concern for the use of the gardens.
- (5) Pruning the tree would be expensive and this would also represent a biannual expense.
- (6) The tree was not protected by a Tree Preservation Order when the owners bought the property. Plans to build an out-building at the bottom of the garden under

permitted development rights have been stymied.

(7) The tree impairs good TV reception outside of the winter months.

(8) The tree overhangs neighbouring gardens and causes shading in the summer.

8. Officer's response to the objections:

8.1 The tree is visible in public and private views from surrounding roads and from other nearby properties. It is correct that the public views are partial or glimpsed, but this is the nature of the contribution that most trees in private ownership make to the public realm. Trees seen between and over buildings give diversity and depth to these views and soften the hard massing and texture of the built environment generally. Mature trees provide a mature and naturalistic setting to urban landscapes.

8.2 Trees are biological organisms that regularly shed ephemeral structures such as leaves, flowers and fruit. It is accepted that this represents an inconvenience for the maintenance of gardens and gutters. However, the ubiquity of these and other minor nuisances, such as imperfect TV reception or bird mess, implies that these minor nuisances should be an expected and normal part of property ownership in suburbs with gardens and trees. The contribution that trees provide in terms of benefits to wider society are now well documented; these are Social (amenity and wellbeing), Environmental (flood mitigation, particulate trapping, carbon sequestration and storage etc) and Economic (house prices uplifts, increased inward investment), and these can be argued to outweigh and compensate for the minor negative characteristics associated with living in proximity to trees.

8.3 The tree stands back from the middle of the rear garden on the eastern boundary side. Due to the position of the tree relative to the arc of the sun, it causes shade to approximately half of the garden where the tree stands and to the garden to the west. This effect will diminish during the latter part of the day as the sun dips towards the northwest. This leaves about half the garden (approx. 10m in length) unaffected by shade from the tree at any time of the day. The garden was observed to have a reasonable lawn which indicated that there was sufficient light for its maintenance.

8.4 The TPO does not necessarily hinder further appropriate development of the site providing that tree constraints are taken properly into account. Trees are a material consideration in the planning process whether they are legally protected or not. The TPO does however prevent any pre-emptive removal of the tree as a constraint, and provides legal weight to any tree protection condition that may be applied to a planning consent; or if it is permitted development, an application under the TPO may be required if construction works involve excavations within the tree's Root Protection Area.

8.5 The tree has been inspected recently by the Tree Officer to confirm that it was in an appropriate condition for the TPO to be confirmed. The tree is in good physiological and structural condition. A small number of little dead branches (less than 3 cm in diameter) were observed which is quite normal; the production of such deadwood is a natural process associated with the growth and development of a tree's crown. Trees, even large and mature specimens, are generally extremely safe in relative statistical terms. It is still prudent for tree owners in locations close to people or property to have them inspected from time to time in order to ensure that they are not in a dangerous state, as they owe a duty of care to others. Any works involving the

removal of deadwood does not require consent under a TPO to undertake. For any other prescribed works, an application can be made under the TPO at any time, and this will be determined on the basis of the strength of the arguments and evidence presented in support of it.

- 8.6 During the recent inspection it was noticed that the position of the tree as indicated on the provisional TPO map was not accurate. The tree is actually set further back towards the rear of the garden (north). This minor inaccuracy can be corrected as a modification to the TPO Map if the Committee decides to confirm the Order.

9. Conclusion:

- 9.1 The beech tree covered by the TPO provides significant visual amenity benefit to the street-scene in views from Forest Road, Ridgeway Road and London Road. The tree appears to be a source of inconvenience and irritation to the tree's owners and one neighbour. However these impacts are relatively minor in scale and are considered to be outweighed by the tree's positive contribution to public visual amenity and to wider ecosystem service provision.
- 9.2 The TPO does not hinder appropriate development of the site. Trees are a material consideration in the planning process whether they are legally protected or not. Confirming the TPO makes permanent the planning controls that require consent for tree removal, pruning or any other damaging activity. An application can be made under the TPO at any time for any prescribed works, and such an application will be determined on the strength of the arguments and evidence presented in support of it.

10. Recommendation:

- 10.1 Taking into account the objections that have been received to the Order, officers recommend that the Oxford City Council – 11 Forest Road (No.1) Tree Preservation Order 2019 be confirmed with a modification to correct the position of the tree on the TPO map (relocate closer to the rear boundary).

11. Human Rights Act 1998

- 11.1 Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to confirm this Tree Preservation Order with a modification. 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.

12. Section 17 of the Crime and Disorder Act 1998

- 12.1 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 a modification, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

13. Background Papers:

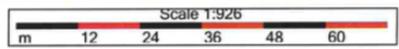
1. Oxford City Council – 11 Forest Road (No.1) Tree Preservation Order, 2019.
2. Letters of objection to TPO from the house holder and neighbours.

APPENDIX 1

Oxford City Council - 11 Forest Road (No.1) Tree Preservation Order 2019



Scale : 1:925



Organisation	Oxford City Council
Department	Business Improvement
Comments	Not Set
Date	12 November
SLA Number	10019348

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