



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of Regeneration & Development Services

Date: 11th October 2016

Subject: Tree Preservation Order No. 410
Land adjacent 6 Canterbury Drive, Sheffield, S10 3RY

Author of Report: Andrew Conwill, Urban and Environmental Design Team

Summary: To report objections to Tree Preservation Order No. 410

Reasons for Recommendation

To protect trees of visual amenity value to the locality

Recommendation Tree Preservation Order No. 410 should be confirmed unmodified.

Background Papers: A) Tree Preservation Order No. 410 and map attached.
B) Objection letter attached.

Category of Report: OPEN

REGENERATION & DEVELOPMENT SERVICES

REPORT TO PLANNING & HIGHWAYS COMMITTEE

11TH OCTOBER 2016

TREE PRESERVATION ORDER NO. 410

LAND ADJACENT 6 CANTERBURY DRIVE, SHEFFIELD, S10 3RY

1.0 PURPOSE

1.1 To seek confirmation of Tree Preservation Order No. 410.

2.0 BACKGROUND

2.1 Tree Preservation Order (TPO) No. 410 was made on 29th April 2016 to protect trees on land adjacent to 6 Canterbury Drive. A copy of the order with its accompanying map is attached as Appendix A.

2.2 This Service was made aware that trees on the land were to be removed commencing the 3rd May 2016 and the order was served to protect the trees because the trees had no legal protection.

2.3 The land fronts part of the Canterbury Drive highway boundary, a residential cul-de-sac and borders the rear gardens of residential properties on Canterbury Avenue and Canterbury Crescent.

2.4 The trees upon the land comprise mainly of mature sycamore, ash and beech and are growing as a small group / copse.

2.5 The visual amenity value of the trees was assessed by a Landscape Planning Officer. The trees were found to be visually prominent when viewed from the Canterbury Drive highway and can also be viewed from the Canterbury Crescent, Canterbury Avenue junction and the lower part of the Canterbury Crescent highway.

3.0 OBJECTIONS TO TREE PRESERVATION ORDER

3.1 Objections to the tree preservation order have been received from Fiona Oxley the daughter of the owner of the land Mrs W Oxley of 6 Canterbury Drive, S10 3RY. A copy of the objection letter is attached as Appendix B.

4.0 FIONA OXLEY'S GROUNDS FOR OBJECTION AND OFFICER RESPONSE

4.1 *"A qualified tree surgeon was contacted as we had concerns over the safety of several trees around the perimeter of the land that appear to be poor specimens approaching the end of their lives and therefore likely to cause damage to adjacent properties. One branch had already fallen into a property on Canterbury Drive and the owner of 45 Canterbury Avenue has recently employed a tree surgeon to remove a large overhanging branch*

from an ash tree. The remaining tree is a large specimen that leans significantly towards his property. The tree surgeon carried out an assessment and agreed with us classing 11 trees as “potential hazards to neighbouring houses” in his quote to remove them. I have this in writing. We therefore asked him to go ahead with the work on safety grounds to avoid problems occurring but were stopped by the serving of a TPO on the whole area, not even on an individual tree that could be classed as a valuable specimen.”

4.2 Officer response:

A site meeting was held on 5th August 2016 with Fiona Oxley and a Sheffield City Council, Community Tree Officer and Landscape Planning Officer at which a ground level condition inspection of the trees was carried out by the Community Tree Officer. At the meeting Fiona Oxley provided a quotation from her tree surgeon detailing the removal of eleven trees because of their condition. The trees were inspected by the Community Tree Officer and no obvious defects were noted other than for sycamore tree 7 as numbered in the quotation, which was found to have an unidentified bracket fungus. The tree surgeons quotation was considered inconclusive in its findings and Fiona Oxley was advised to have the trees surveyed by an arboriculturist or other appropriate expert. When applying to carry out work to a tree covered by a TPO the application must be accompanied by the necessary evidence to support the proposal when the reason for the work is the tree’s condition. The submission of a written tree survey, by an arboriculturist or other appropriate expert would provide such evidence and any work recommended in the report could then be considered.

4.3 *“It was never our intention to remove all the trees, some of the better specimens such as a large beech and a sycamore containing a rookery were to be retained as they pose no threat. I therefore fail to see how your grounds of “the trees having significant amenity value” and under threat can therefore be upheld on the whole area.”*

4.4 Officer response:

It was unknown how many trees were to be removed and the tree preservation order was made to maintain the visual amenity value of the tree group. The removal of eleven trees as proposed would have resulted in the majority of the mature tree cover been removed and would have compromised the visual amenity value of the group.

4.5 *“We are keen on wildlife, appreciating nature and the environment but believe this work is necessary and not detrimental to the area. The worry of potential damage has caused my mum (who owns the land) a great deal of distress for a while now so we are keen to sort the situation out.”*

4.6 Officer response:

It is understood Fiona Oxley is arranging for an arboriculturist or other appropriate expert to carry out a tree survey of the trees upon the land to

categorise their condition. In the event the tree survey recommends work to the trees then an application to the City Council as Local Planning Authority could be submitted.

5.0 WRITTEN REPRESENTATIONS SUPPORTING THE ORDER

5.1 Three written representations supporting the order have been received one of which has been signed by seventeen persons living in properties on Canterbury Crescent.

6.0 EQUAL OPPORTUNITIES IMPLICATIONS

6.1 There are no equal opportunities implications.

7.0 ENVIRONMENTAL AND PROPERTY IMPLICATIONS

7.1 There are no property implications.

8.0 FINANCIAL IMPLICATIONS

8.1 There are no financial implications.

9.0 LEGAL IMPLICATIONS

9.1 A local authority may make a TPO where it appears that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area (section 198, Town and Country Planning Act 1990).

9.2 A TPO may prohibit the cutting, topping, lopping or uprooting of the trees which are the subject of the order. It may also prohibit the wilful damage or destruction of those trees. Any person who contravenes a TPO shall be guilty of an offence and liable to receive a fine of up to £20,000.

9.3 A local authority may choose to confirm a TPO it has made. If an order is confirmed, it will continue to have legal effect until such point as it is revoked. If an order is not confirmed, it will expire and cease to have effect 6 months after it was originally made.

9.4 A local authority may only confirm an order after considering any representations made in respect of that order. The making or confirmation of a TPO could interfere with the right of a property owner to peacefully enjoy their possessions. Said interference is capable of being justified under Article 1 of the First Protocol of the European Convention on Human Rights as being in the public interest (the amenity value which the tree brings), and subject to the conditions provided for by law (the Town and Country Planning Act 1990) and by the general principles of international law.

9.5 If a tree is on residential property, the making or confirmation of a TPO could interfere with a right of a person to respect for their family life and

their home, but is capable of being justified as being necessary in a democratic society for the protection of the rights and freedom of others (Article 8 of the European Convention on Human Rights) and proportionate to the wider benefits it affords.

9.6 One representation has been received which objects to the confirmation of Tree Preservation Order No.410. The objection is covered within this report.

10.0 RECOMMENDATION

10.1 Following consideration of the objection reported it is recommended Tree Preservation Order No. 410 at land adjacent 6 Canterbury Drive should be confirmed unmodified.

Flo Churchill
Interim Head of Planning

11th October 2016

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