

COMMITTEE REPORT

BY THE DIRECTOR OF ECONOMIC GROWTH & NEIGHBOURHOOD SERVICES
READING BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE: 4 SEPTEMBER 2019
TITLE: OBJECTION TO A TREE PRESERVATION ORDER 25 HIGHDOWN HILL ROAD,
READING

Ward: Peppard

RECOMMENDATION

That the Tree Preservation Order be confirmed with the inclusion of T2 Larch.

1. PURPOSE AND SUMMARY OF REPORT

- 1.1 To report to Committee an objection to Tree Preservation Order No. 9/19 relating to 25 Highdown Hill Road, Reading (copy of TPO plan attached - Appendix 1).

2. BACKGROUND

- 2.1 Following the pruning of one of the trees by a neighbour, a TPO was requested on a Larch tree at 25 Highdown Hill Road by the owner. Officers assessed the tree and considered this, along with a Pine within the rear garden, to be worthy of a TPO. A TPO was served on 25 June 2019.

3. RESULT OF CONSULTATION

- 3.1 An objection to T2 Larch has been made by 5 Eric Avenue based on the following concerns:

Objection on the Grounds of Safety

The lowest branch overhanging the garden of 3 & 5 Eric Avenue is currently a serious safety hazard which needs to be made safe as soon as possible. Prior to the tree preservation order being in place, on 12th May 2019, numerous incomplete cuts were made during pruning of this branch. The pruning was not completed due to aggression from the owners of 25 Highdown Hill Road. This is a large branch, where this is considerable risk of it falling from a not inconsiderable height with the possibility to cause injury or harm.

T2 sheds small branches, cones, needles and a large amount of debris on to the lawn of both 3 and 5 Eric Avenue. There is the constant potential for small branches/debris to fall on a person or small child causing injury. Ongoing pruning is required to reduce this risk.

A huge number of cones are dropped by the tree. These cones are small and become embedded in the lawn. It is therefore not possible to rake or collect 100% of cones dropped. As such when the lawn is mowed, the mower blade regularly lifts the cones and they not only damage the blade but also represent a hazard as they can be ejected towards persons, or small children playing in the garden, causing injury or harm. Again, ongoing pruning is required to reduce this risk.

Objection on the Grounds of Low Amenity Value

Referring Government guidance:

T2 is a non-native species, it has no rarity value, no cultural value and no historic value. These factors should all be considered in assessing amenity value.

T2 is not visible from Reading Golf Club. T2 is primarily only visible to residents, from the rear of 25, 23, 21 & 19 Highdown Hill Road and 3 & 5 Eric Avenue. T2 is visible from an extremely limited number of public spaces, spaces which are not frequented by the wider population of Reading, Caversham or even Emmer Green. It can therefore not have significant amenity value, which is a requirement of the guidance for selecting trees on which to place a TPO. The general public have only a fleeting view of T2 if viewing directly between the addresses listed above. This fleeting view of T2 does not warrant the order. Again, in the absence of a TPO there is no risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. Hence a TPO is not warranted.

The order does not provide any benefit, present or future to the general public and offers no interest of amenity. This contradicts Town and Country Planning Act 1990, Section 198.

"If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order."

Further T2 offers exceedingly limited contribution to the dense treeline. From the limited aspects where it is visible, which per the above excludes the entirety of the golf course, T2 is back dropped by far larger, native species. Should it be removed the overall landscape would not noticeably change, ergo it cannot have a significant impact on the amenity value of the area and therefore a TPO is not justified.

Objection on the Grounds of Not Notably Complementing the Treeline of Reading Golf Club

The order states T2 complements "the tree line within the adjacent Reading Golf Club land". Per the above T2 is not visible from the grounds of Reading Golf Club, and visible on an extremely limited basis from the surrounding neighbourhood. On the basis that the tree cannot be seen, the argument it complements the treeline is redundant.

The trees forming said "tree line within the adjacent Reading Golf Club land" are protected by TPO 4/18. T2 does not provide a notable or substantial contribution to said tree line to warrant this order 9/19.

TPO 4/18 is in place to protect said tree line and further TPOs for the same intention are not justified or necessary.

Objection on the Grounds of Contravening the Tree Strategy for Reading

T2 is a non-native species and does not add any greater diversity of local wildlife than other neighbouring trees. As per the TREE STRATEGY FOR READING • JUNE 2010 section 3.7 Wildlife/Biodiversity;

"Native species support a greater diversity of wildlife than non-native species. Native species should be planted in preference to non-native species where appropriate."

The requirement for an additional order to support the Reading Golf Club tree line when there is an existing order (4/18 A1) in place is in contradiction with the guidance provided in Reading Borough Council Tree Strategy regarding prudence of TPO applications and priorities. As per the TREE STRATEGY FOR READING • JUNE 2010 section 3.4.2;

"The preparation, serving and subsequent administration of Tree Preservation Orders (TPO's) is resource intensive. Making additional orders

year on year adds to the resources needed to administer complaints and applications for works or felling. The Local Authority needs to be more prudent about making TPO's and determine priorities for such protection. The Tree Strategy will help in determining those priorities."

Considering that T2 is a non-native tree and the RBC tree strategy statement above regarding priorities for TPO application, the requirement for the 9/19 TPO is justifiably questionable.

- 3.2 In response to the objection from 5 Eric Avenue, Officers have the following comments:

Objection in respect of Tree T2 (Larch) on the Grounds of Safety

The objection refers to concerns relating to both 3 & 5 Eric Avenue. Officers have received no objections directly from No. 3 or any indication from the owner, or within the objection, that the objector is speaking on their behalf. As such, it is appropriate for Officers to only consider the objection as being from 5 Eric Avenue in relation to concerns about garden / safety.

Officers are aware that the tree owner was concerned about the level of work being carried out by the objector, hence acted to halt the work. If branches have been left in a condition that requires further work there are two options 1) the objector can provide evidence that the branches are 'imminently dangerous', which if agreed means that works can be undertaken to make them safe without formal approval from the Council or 2) if not deemed as 'imminently dangerous' then an application seeking consent to carry out necessary work can be submitted.

Mature trees will shed small scale debris such as cones, needles and small branches. This is an inevitable consequence of living with trees and would not be a valid reason to permit the removal of an otherwise healthy tree or to omit such a tree from a Tree Preservation Order. Nor could it be sufficient justification to carry out inappropriate pruning work contrary to tree management best practice and which could be potentially harmful to a tree's health. The concerns raised could not be eliminated until the tree is felled or by pruning the whole crown back to the objector's boundary line, which would detrimentally affect the appearance of the tree and produce multiple wounds, each being an entry point for pathogens. The tree in question only overhangs a small portion of the objector's garden therefore is it not considered that the nuisance or potential risk is so severe that the tree should not be protected.

A tree is the responsibility of the owner who should make sure that it does not pose an unacceptable risk to persons or property. This would require regular inspections and addressing foreseeable, unacceptable risk. Officers suggest that natural debris would not be considered as an unacceptable risk hence common sense safety precautions would be more appropriate, e.g. avoiding activity under the tree (and those overhanging from the Golf course) in high winds and the avoidance of mowing in the presence of small children; children being deemed as unable to make appropriate risk assessments.

Objection in respect of Tree T2 Larch on the Grounds of Low Amenity

In relation to species, rarity and other values such as historical and cultural can make a TPO more prudent, however Officers do not place significant

weight on a tree's species when determining whether it is suitable for inclusion in a TPO.

It is appreciated that the tree, when viewed from Eric Avenue and Highdown Hill Road forms part of the tree line (within Reading Golf Course), however it is under different ownership and can be identified as an individual.

Government guidance in relation to 'amenity' states the following:

“‘Amenity’ is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future”.

In terms of 'visibility', Government advice goes on to say:

‘The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public’.

It was established in the case of Wilkson Properties Ltd Vs Royal Borough of Kensington & Chelsea (Royal Courts of Justice Case No: CO/2334/2010 dated 13/01/2011) that collective 'private' views of a tree(s) constitute a 'public' view.

Given the above and that the tree in question is a continuation of the tree line at Reading Golf Club, the Council is satisfied that there is sufficient amenity value to warrant a TPO.

Objection in respect of Tree T2 Larch on the Grounds of Not Notably Complementing the Treeline of Reading Golf Club

The points given above in relation to amenity would also apply to this specific objection.

The Larch (and Pine) contributes to the treed nature of the area. The presence of a TPO on adjacent trees within the Golf Club land does not mean that the Council should automatically reject requests for TPOs on any adjacent trees.

Objection in respect of Tree T2 Larch on the Grounds of Contravening the Tree Strategy for Reading

Whilst not a native tree, the Larch was introduced in the early 1600s so has a long association with the UK. The seeds of Larch are eaten by a number of birds and the caterpillars of many moths feed on the foliage so whilst not native it does have wildlife value.

Since the Tree Strategy was adopted in 2010 thinking has moved on and whilst native trees do support a greater diversity of wildlife, the inclusion of non-native trees for both climate change resistance and pest and disease resistance also forms an important part of a tree population.

The Council has recently declared a Climate Emergency and as such, the retention and planting of trees has become more important. The

expediency of serving a TPO is always carefully considered due to limited resources. Where a TPO is requested and the tree is deemed to have sufficient amenity value and is under threat of inappropriate pruning from a third party, a TPO is considered expedient hence justifies resources being used.

4. CONCLUSION

- 4.1 The Larch can be identified as an individual tree but also contributes to the treed nature of the locality, along with the Pine in the same garden. None of the objections raised are considered to be valid reasons for omitting the tree from the TPO for the reasons provided and the tree is under threat of inappropriate pruning by the objector. It is therefore recommended that the TPO be confirmed with the inclusion of T2 Larch.

5. LEGAL IMPLICATIONS

- 5.1 Preparing, serving confirmation and contravention of TPO's are services dealt with by the Council's Legal Section.

6. FINANCIAL IMPLICATIONS

- 6.1.1 Administrative.

7. EQUAL OPPORTUNITIES IMPLICATIONS

- 7.1 In assessing objections to TPOs, officers will have regard to Equality Act 2010, Section 149, a public authority must, in the exercise of its functions, have due regard to the need to—
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.2 In terms of the key equalities protected characteristics it is considered there would be no significant adverse impacts as a result of the making of this TPO.

8. SUSTAINABILITY IMPLICATIONS

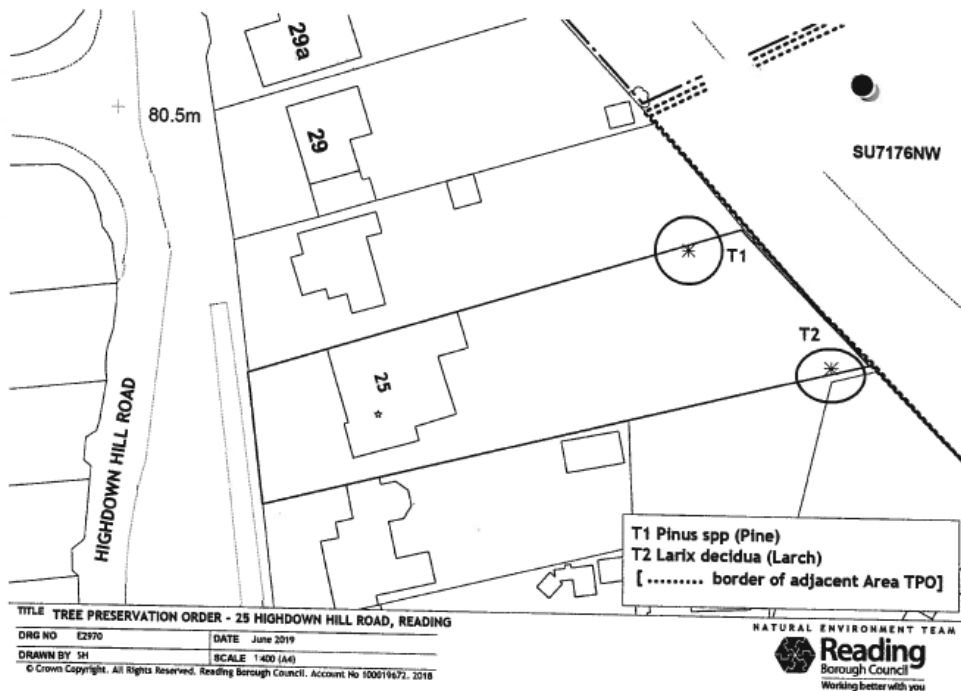
- 8.1 The aim of the TPOs is to secure trees of high amenity value for present and future generations to enjoy. Trees also have high environmental benefits through their absorption of polluted air and creation of wildlife habitats.

9. BACKGROUND DOCUMENTS

- 9.1 Planning Section's Tree Preservation Order Directory
- 9.2 Register of Tree Preservation Orders
- 9.3 Plan of TPO 9/19 relating to 25 Highdown Hill Road, Reading (Appendix 1)

Officer: Sarah Hanson

Appendix 1 - TPO plan



Appendix 2 - Photos



T2 Larch



T1 Pine (left) and T2 Larch (right) as viewed from Eric Avenue (tree line to the rear is within Reading Golf Club and protected by a TPO)