

**WEST OXFORDSHIRE DISTRICT COUNCIL**  
**LOWLANDS AREA PLANNING SUB-COMMITTEE – 26 MAY 2015**  
**CONFIRMATION OF TREE PRESERVATION ORDER NO.1/2015**  
**– LAND AT FRUITLANDS, EYNHAM (141.289)**  
**REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING**  
**(Contact: Nick Dalby, Tel: (01993) 861662)**

(The decision on this matter will be a resolution)

**1. PURPOSE**

To consider the confirmation of Tree Preservation Order No.1/2015 affecting land adjacent to Fruitlands, Eynsham.

**2. RECOMMENDATION**

That the Order be confirmed without modification.

**3. BACKGROUND**

- 3.1. At the meeting of the Lowlands Area Planning Sub-Committee on 19 January 2015 planning permission was refused for residential development on land adjacent to Fruitlands, Eynsham (14/1009/P/OP). The reason for refusal included the loss of trees and the Committee gave instructions to include all trees at the site in a tree preservation order.
- 3.2. A provisional area tree preservation order was made on 20 January 2015.
- 3.3. Objections to the making of the Order have been received from the landowner and letters of support have been submitted from local residents.
- 3.4. The provisional Order takes effect for a period of six months and during this time the Council must decide whether to confirm it, amend it in some way, or allow it to lapse.

**4. OBJECTIONS**

The grounds for objecting to the making of the Order are as follows.

- The trees included in the Order are not considered to be of high amenity value.
- The local authority failed to gather sufficient information prior to making the Order.
- The local authority has placed a TPO on the site to prevent future development.
- An area TPO is an inappropriate means of protecting the trees.

**5. COMMENTS ON THE GROUNDS OF OBJECTION**

- 5.1. *The trees included in the Order are not considered to be of high amenity value.*

Following an assessment of the site and its surroundings, and having regard to the Landscape & Visual Impact Assessment submitted with the planning application and referred to in the objection to the TPO, it is recognised that the *visual* public amenity of the trees at the site is restricted to limited views from Fruitlands and longer views from further afield where the trees provide a backdrop of greenery on the skyline.

Many of the trees are not particularly special in their own right but it is the cumulative value of the trees as a whole which is worthy of retention. Other factors can be taken into account when considering amenity value; an assessment is not entirely restricted to *visual* amenity. The Council has commissioned an ecological assessment which concluded that the ecological value of the site is high; higher than was recognised in previous assessments. It is reported to contain two priority habitats. Most of the site has been categorised as Lowland Mixed Deciduous Woodland with a smaller area of Traditional Orchard. The loss of such habitats would be contrary to both local and national planning policies.

Taking into account all aspects of public amenity afforded by the area of trees it is considered that it is sufficiently high to justify inclusion in an order.

- 5.2. *The local authority has failed to gather sufficient information prior to making the area subject to a TPO.*

The Order has been made lawfully, accurately and compliant with government guidance.

- 5.3. *The local authority has placed a TPO on the site to prevent future development.*

As the reason for the refusal of planning permission included the proposed loss of trees it is reasonable for the local authority to make a TPO to bring them under its general control. A TPO cannot prevent future development but it would be a material consideration to be taken into account by the local authority or the Planning Inspectorate in future planning decisions.

- 5.4. *An area TPO is an inappropriate means of protecting the trees.*

Members instructed the making of the Order to include all trees at the site. An 'area' classification is the most appropriate category in the circumstances. It is recognised that such designations can be problematic in the longer term but it is considered that this is the most appropriate category in the circumstances in recognition of the cumulative value of the trees.

## **6. LETTERS OF SUPPORT**

Twenty six letters of support have been received in response to the making of the Order, including one from Eynsham Parish Council. The reasons for support can be summarised as follows and the letters are available on file.

- Local environmental asset.
- Wildlife value.
- Of local amenity and recreational value.
- A natural barrier along the edge of the village.
- Area contains remnants of the last remaining orchard in Eynsham – heritage value.
- Its importance as green space will increase if more development takes place to the west of Eynsham.
- Removing trees would affect the landscape and natural environment of the area.

## **7. PLANNING ASSESSMENT**

- 7.1. The provisional Order was made to safeguard the area of trees following the refusal of planning permission for development. As the landowner is likely to appeal against the decision the application will be determined by the Planning Inspectorate. In the meantime, it would be sensible to retain the protection afforded by the Order.
- 7.2. The *visual* amenity afforded by the trees is not particularly high but as it has been established that the area has been identified as priority habitat this must be taken into account in planning decisions. It is recognised that a TPO is not an ideal mechanism to safeguard such ecological areas however it is considered that the combination of visual amenity and ecological value are sufficient to justify the inclusion of the area within a TPO.
- 7.3. In the circumstances it is recommended that the Order be confirmed without modification.

## **8. ALTERNATIVES/OPTIONS**

The Council could decide not to confirm the Order or confirm it subject to modifications.

## **9. FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

## **10. REASONS**

To protect and enhance the environment in accordance with the Council Plan.

Giles Hughes - Head of Planning and Strategic Housing  
(Author: Nick Dalby, Tel: (01993) 861662; EMail: [nick.dalby@westoxon.gov.uk](mailto:nick.dalby@westoxon.gov.uk))  
Date: 1 May 2015

Background Papers:  
TPO No.1/2015.